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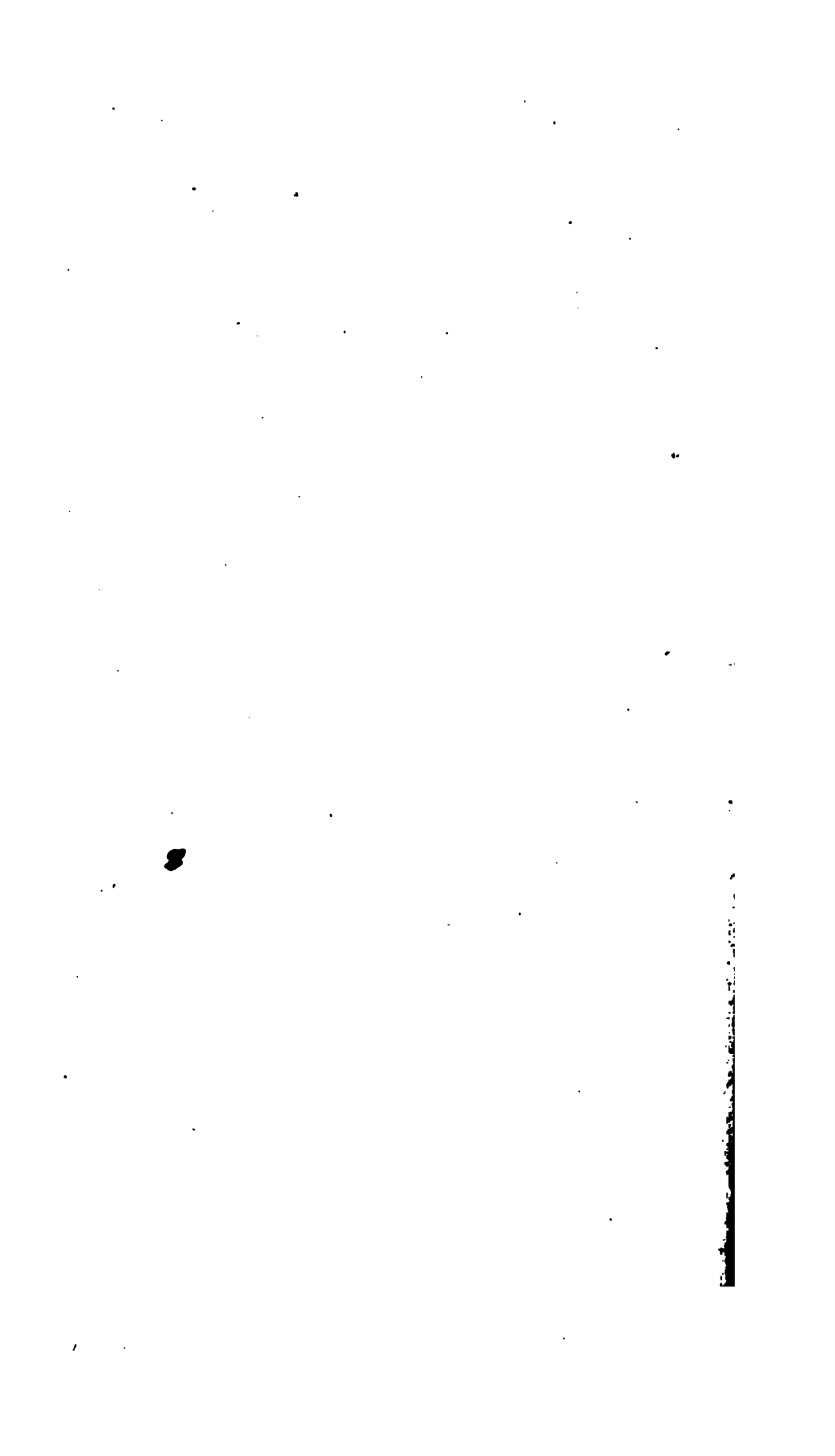
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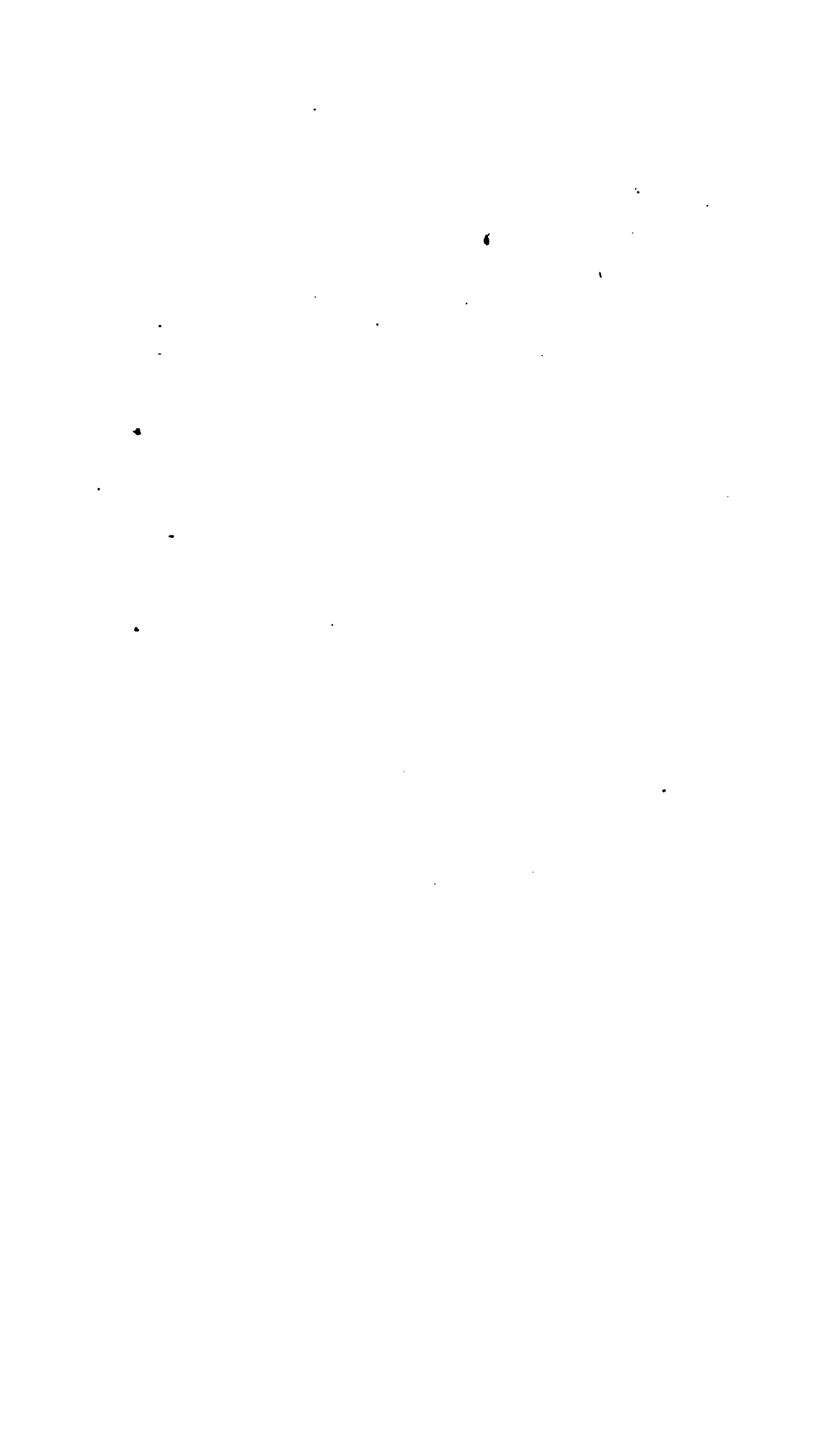
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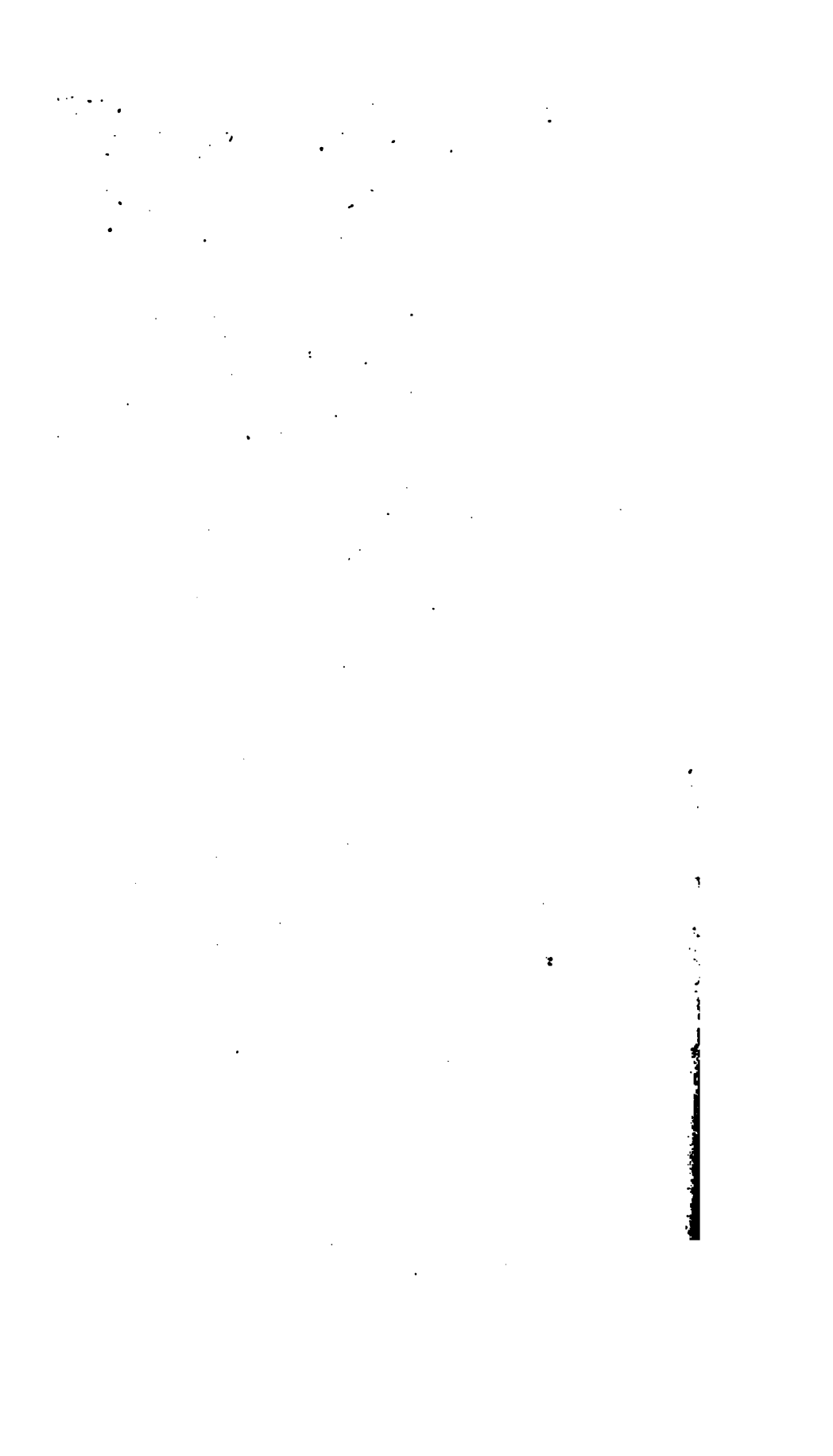
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VERMONT CENTRAL R. R. ACCOUNTING

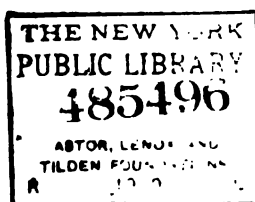
1875.

Testimony Before the Special Masters.

REPORT of MASTERS.

ST. ALBANS, VT.:
ADVERTISER PRINT.
1877.

21



VT. & CANADA R. R. CO. vs. VT. CENTRAL R. R. CO. &
OTHERS.

*Testimony taken before the Masters appointed to settle the accounts of
the Trustees and Managers.*

Court commenced its session on Wednesday, July 21st, 1875; the
Masters being:

Hon. Paul Dillingham, (Chairman,)

" Dudley C. Dennison,

" John L. Edwards.

Counsel for the Trustees and Managers:

Hon. Luke P. Poland,

" Levi Underwood,

B. F. Fifield, Esq.

Counsel for Vt. & Canada R. R. Co. and others:

Hon. C. W. Willard appears for the Vt. & Canada R. R. Co.

Chas. N. Davenport, Esq., appears for Col. Rush C. Hawkins of
New York, Austin Burchard, of Newfane, and others, holders of 1st and
2d Mortgage Bonds.

Col. A. T. Walker (Messrs. Simons & Walker), appears for Wil-
liam Sohler, defendant in the cause, and holder of first mortgage bonds.

A. G. Safford, Esq., appears for Hon. F. A. Brooks and others,
holders of 1st and 2d Mortgage Bonds.

No evidence was taken on the first day, the time being occupied by
various suggestions and remarks thereon, by counsel on both sides as to
the manner of procedure in investigating the accounts. It was decided
that the stenographer's notes of the first days proceedings should not be
transcribed in full, as such was not required, but merely an abstract made,
which is here given.

It was arranged to commence taking testimony the next day, Thurs-
day, July 22d.

Court adjourned at 5:30 until the next day.

1875
Dec 18 1875

THURSDAY, JULY 22.—MORNING SESSION.

The Examination commenced at 9, a. m.

Gov. Smith, being duly sworn, testified as follows:—

Direct examination by Mr. Charles N. Davenport.

Q. When were you appointed Receiver of the Vermont Central and Vermont & Canada Railroads? A. In December, 1858,—I think

Q. Have you held that office since that date? A. I held it until the 1st of July, 1873.

Q. During that period was Joseph Clark associated with you as Receiver? A. Mr. Clark was appointed I think in January, 1859.

Q. What salary have you received for your services in the capacity of Receiver? A. The first year or two, I do not remember the exact time, my salary was, I think, \$4000. After that time, at the time of the last report of the Masters, I think in 1861 or 2, my salary was fixed at \$4,500 per year.

Q. By whom was your salary fixed at \$4000 per year? A. I am doubtful whether it was \$3000 or \$4000 at first, but it was fixed by arrangement between the Receivers and Managers, and among ourselves but it was subject to the order of the Court.

Q. After '62 was your salary of \$4,500 fixed upon by the Masters? A. Yes, sir.

Q. Was that the same salary that you and your associates had agreed upon? A. Yes, sir.

Q. What masters fixed your salary? A. Judge Smalley and Judge Pierpoint.

Q. Was that salary thus fixed for the future as well as for the past? A. Nothing further was said about it than that I should be allowed \$4,500.

Q. Since '62 have you charged the Trust \$4,500 per year for your services as receiver? A. I have gone on from time to time drawing money from the Trust, without having any settlement whatever. I do not intend to exceed the sum of \$4,500 per year, but meant to keep my drafts within that. After Mr. Taylor came into the Trust, about '67 or '68, a board of management was authorized by the consent of the Court and Mr. Robert Taylor, of Philadelphia, and Mr. Cheney were appointed on the Board as the Board of Receivers and Managers. When I

Taylor came in he wanted his compensation fixed. There was nobody authorized to fix it and he finally settled that he ought to have \$5000 per year and he and the rest of the Board suggested that I ought to have \$5,500 per year,—\$500 more than he was having; I said I did not think any of us had any right to fix our compensation. Mr. Taylor then drew at the rate of \$5000 per year for his services. At some time subsequent to that—I cannot tell the exact year—Mr. Taylor in settling up his own salary entered mine at \$5,500, and in settling our cash account and taking up vouchers, he put to my credit \$500. I said that the question was not for me to settle, and I did not settle it one way or another, and the question of salary rests for the Court to fix.

Q. What do you claim, Gov. Smith, as salary for your services as Receiver since 1862? A. I have no idea.

Q. What is your present claim. I suppose it is to be settled? A. I have not thought of it. I have gone along without ever stopping to think.

Q. And in the account which you have filed under an order of the Court, you have made no charge for your services as Receiver? A. Not at all, sir, unless it is what has been charged for cash drawn.

Q. Do you now claim anything against this Trust for your services as Receiver? A. I have no thoughts of it one way or another.

Q. Then you have not made up your mind whether you claim anything for your services? A. I claim to be fairly compensated.

Q. Will you state to the Masters what in your judgment will be fair compensation? A. I have never fixed a sum for my own compensation at any time.

Q. But you have from time to time drawn from the Trust funds, such sums as you thought would be adequate; is that your idea? A. No, sir. If I wanted \$100, or \$500, I have drawn it, and given a receipt for it.

Q. You have given receipts for sums received for services as Receiver and Manager? A. I have given my receipt for so much money, on account of services and expenses.

Q. I think you remarked that you never intended to exceed \$4,500 per annum? A. I said I did not intend making my drafts on the Company to exceed the amount that the Masters had indicated,—\$4,500 and I think I did not exceed that sum.

Q. Did you ever intend to make the Trust chargeable on account of your trust services as Receiver for more than \$4,500 per annum? A. Well, I do not think that I ever gave any special thought or consideration to the subject at all, any further than that as the labors of the Trust increased, I thought upon one occasion since the Trust closed, I think, at the time the Central Vermont came in, the question of salaries came on at that time. They asked me what I thought I should be allowed, I said I had no opinion to express, one way or another. They discussed that subject among others, and asked me what my former salary had been, I told them the fact I have told you,—\$4,500. I then remarked that the labors at that time, as compared with the labors and responsibilities now, were two very different things, but I declined to express my opinion as to what my salary should be, and it has not been fixed.

Q. And you are unwilling at this time to name to the Masters the sum which you expect to receive as compensation? A. I am not prepared to do so. I do not know that I should name any sum, under any circumstances.

Q. Then you understand this as a matter to be settled by the Masters, when the subject comes before them? A. When the subject comes before them I shall state to them the nature of the services and leave them to state the sum.

Q. Since 1858, and down to 1873, you have been in the service of this Trust as Receiver? A. Yes, sir.

Q. Devoting all your time to it? A. Yes, sir.

Q. During the period that you have been thus acting as Receiver A. I should not have said devoting all my time to it. There was the time that I was president of the Northern Pacific Railroad, and in charge of both, and did not, therefore, devote all my time to this railroad.

Q. How long were you president of the Northern Pacific? A. Four or five years, I think.

Q. What, four or five years? A. From 1867 to the spring of 1872. I think it was from '67. I resigned in the spring of 1872.

Q. What official relation did you sustain at any time during the period between 1858 and 1873 to the bondholders of the Vermont Central? A. I was appointed Trustee at the same time that I was appointed Receiver.

Q. Were you appointed Trustee of both mortgages? A. No; not of the second. I succeeded my father in 1858 on that trust.

Q. You hold the position of Trustee to the First Mortgage Bondholders? A. Yes, sir.

Q. What salary, if any, have you ever charged for your services as Trustee of the First Mortgage Bondholders? A. I have never charged any.

Q. Have you understood that your services as Trustee of the First Mortgage Bondholders were covered by your salary as Receiver? A. The subject has never been up for consideration by me at any time.

Q. What portion of the time since 1858 have you held the office of President of the Vermont Central Railroad? A. I am not confident without referring to the ledger, but I think I was appointed President of the Vermont Central in 1861 or 1862, but I am not sure.

Q. Have you been President of that corporation since? A. I am mistaken, Mr. Dexter was president then, and he held the office some time. I can't say when I was elected, perhaps in 1866. I have been president from the time I was elected, but I cannot say what time was.

Q. Down to this time? A. Yes, sir.

Q. Have you been the owner during all the time you have been president of a controlling interest in the stock of the Vermont Central Railroad? A. I bid off the stock of the Vermont Central at public auction, some time previous, and held it under that title.

Q. You bid off all the stock? A. Yes, sir.

Q. Since you have been President of the Vermont Central who

been its clerk? A. Mr. Peck, of Burlington, has been its clerk for a number of years.

Q. Give us his name, if you please? A. Mr. Edward Peck. I can't tell you when he came, but I think he came in before I was elected President, but am not sure. I don't know but he came in the year I was elected President; and do not recall who was the preceding clerk. I think Mr. Walton.

Q. Who succeeded Peck? A. My son, George Gregory Smith.

Q. Can you tell me about the time your son George Gregory Smith became clerk? A. I can only give you my impression. I should think three or four years ago.

Q. And he is still clerk? A. Yes, sir.

Q. The office is merely nominal? A. Yes, sir.

Q. Why has the organization of the Vermont Central Railroad been kept on foot? A. It was necessary to hold the franchise.

Q. And has it been kept on foot for your benefit, or the benefit of the Trust? A. I do not know that I have had any personal benefit from it.

Q. Have you, as one of the Receivers and owner of the stock of the Vermont Central, kept the corporate organization of that road on foot for the benefit of the Trust of which you are Receiver? A. I considered that the organization of the company and its arrangements was necessary to hold the Trust and all the property together, and I hold it for that purpose. I have no personal benefit in it.

Q. It has not been for the purpose of giving a corporate consent to the various loans which have been made? A. No.

Q. No such purpose as that? A. No, sir. It has given its consent as a corporation, as one of the parties to the lease of the Canada Road.

Q. What relation does your brother, W. C. Smith, sustain to the receivership? A. He is now one of the Directors of the Central Vermont, that is the only relation he holds as receiver, except that he is one of the Trustees of the second mortgage, and one of the Trustees of the first mortgage.

Q. Your brother, W. C. Smith, is an associate trustee with you of the first mortgage bonds, and he is also trustee of the second mortgage bonds? A. Yes, sir.

Q. For how long a period has your brother, W. C. Smith, been a trustee of the second mortgage bondholders? A. I can't tell you how long, sir, but for a good many years.

Q. Was it for as long a period as you have held the office of Receiver? A. I should think not, sir. I had nothing to do with his appointment, and don't remember when he came in; but before he had any connection with the road he was elected by the second mortgage bondholders, at a meeting of their committee. My impression is that he was elected in 1865, 1866, or 1867; somewhere along there.

Q. What official relation has your brother, W. C. Smith, at any time sustained to the Vermont & Canada R. R.? A. I think he was first clerk of the road, and then he became director. If I remember correctly I think that was in 1861, or about that time. He sat as director there and I think as clerk also. He held the position until the death of

Mr. Lucius Peck, whenever that was, and he was then elected President. He held the office of Director till 1867.

Q. Was he also one of the Directors during the period of his Presidency? A. Yes, sir.

Q. From 1867 to what time was he President of that corporation? A. Until 1872.

Q. Jno. W. Newton, before 1872, for a time was Clerk of the Vermont & Canada Road, was he not? A. He was Clerk at that time.

Q. Can you tell how many years? A. I don't know; I had nothing to do with the affairs of that Company.

Q. What relationship exists between you and Jno. W. Newton? A. He is a nephew of mine.

Q. You have no official relation with the Vermont & Canada Road. A. I have not since 1858. Well, '56 or '57,—I was then Clerk in the Company.

Q. At the time that you were appointed Receiver what roads did you assume control and management of? A. The Vermont & Canada and Vermont Central, from Rouses Point to Windsor, 167 miles.

Q. When did you commence to run the Sullivan Railroad? A. I cannot this moment tell you. I think it was in 1863 or 1864, if I remember right.

Q. Up to that time did you operate any other roads but the Vermont Central and Vermont & Canada? A. No, sir.

Q. That was the first lease that you took of any other road, then? A. Yes, sir.

Q. Have you in your possession the lease or contract under which you took possession and commenced to operate the Sullivan Railroad? A. It is in the safe. I can get it.

Q. Will you produce that and such other leases as you have of the road, that we may take copies of them?

[Lease produced and read by Mr. Davenport.]

Q. You took possession of that road under that lease on the first of September, 1861? A. I think that was the date, sir.

Q. Did you also take possession of the rolling stock of that road? A. Yes, sir.

Q. Whether did you, during the period covered by that lease, use and operate the Sullivan Road in connection with the Vermont Central and Vermont & Canada? A. We ran the Sullivan Railroad as an independent road.

Q. Was that during the whole of the five years? A. Well, not under that lease. We ran it and are running it now, keeping separate accounts, as is done with any other foreign road.

Q. Is that what you meant by saying that you ran it as an independent road; that you kept separate account? A. Yes, sir; just we kept accounts with foreign roads.

Q. What rolling stock was there upon that road when you took possession? A. They had a full complement of stock; four or five engines, and I suppose 100 freight cars, together with passenger, baggage and station cars, and stationary engine, machine shops, machinery, &

so forth. The road was fully equipped to do its own business, and had done it up to that time.

Q. Did you have the same Superintendent on that road that you had on the Vermont Central and Vermont & Canada? A. Yes, sir; Mr. Merrill had charge of the road, and was Superintendent of that road when we leased it, and we kept him there and appointed him Superintendent of this road. He had a salary for his services on that road—\$1,000 a year.

Q. You say he was appointed Superintendent of the Vermont Central and Vermont & Canada roads? A. Yes, sir.

Q. With what reference to the time that you took the Sullivan Road did he become Superintendent? A. I think Mr. Merrill's engagement here was prior to the lease. He had been Superintendent of the Sullivan Railroad.

Q. What did you say the length of the Vermont & Canada and Vermont Central Roads was? A. I think 167 miles, from Rouze's Point to Windsor.

Q. What is the length of the Sullivan Road? A. 24 miles.

Q. Now, after Mr. Merrill became Superintendent of the two roads what salary was he paid for his Superintendence of the Vermont Central and Vermont & Canada? A. I think his salary was \$3,000 per year.

Q. And during that period his salary as Superintendent of the Sullivan R. R. was \$1,000, in addition to the \$3,000? A. I don't remember what it was; but, whatever it was, it was independent of his salary on this road.

Q. Were you running upon the Sullivan R. R. the engines and passenger cars that were run over the Vermont Central and Vermont & Canada? A. The passenger cars ran as through cars. They furnished their *quota*, just as they always do, and each road had its account of car service and was paid separately. We did not change the relation of the road at all from what it was when we took it. They furnished their freight cars.

Q. Did you have separate passenger conductors upon that road? A. I think not, sir.

Q. Did you have the same conductors? A. Yes, sir. I did not fully answer your question about the engines. Up to the time we took the lease the engines on that road did not run off that road. It was found that it would facilitate the business and be more economical for us to run our engines through to Bellows Falls, and we interchanged with the engines of the Sullivan R. R., which ran to White River Junction, where our dividing lines were, and we kept the account and settled it for the engines, one way or the other, just the same as the car service. The wood account was settled by the engineer, according to the miles run. Our conductors ran through to Bellows Falls, over that road. I think Mr. ———, Assistant Superintendent, was conductor at that time, and ran over our roads, and his pay was divided according to the miles he ran.

Q. Well, that was true of all the conductors, was it not? A. Yes, sir. But it had always been our method of running conductors on the freight trains through to Boston. We have through conductors who

run freight trains between Boston and St. Johns and Rouses Point. Each road contributes its proportion of the pay of conductors and baggage masters.

Q. Did you keep up the machine shops on the Sullivan Road?
A. No, sir. The repairs were done here and charged to us, whatever was done. I think we kept up the repairing shop on the Sullivan R. R. for about a year, then we thought this Company could just as well have the profit of it as any one else, and the repairing was done here.

[Gov. Smith here gave an account of what was known as the "99 years' contract."]

That was a contract which had been regarded by the managers of this road as very burdensome against the Vermont Central. It was made by Mr. Lee, John S. Eldredge, Mr. Edward Crane, and with the Northern R. R. It was for the purpose of cutting off the construction of what was called the N. H. Central Road, a line running in competition with the Northern N. H. Road, and the latter road then stepped in. A perpetual contract was then made, that is, for 99 years, by which, in consideration of certain concessions which the Northern R. R. made to the Sullivan R. R., of a certain per centage of the estimated business, which should be paid by the Northern R. R. to the Sullivan R. R., which went to the benefit of Mr. Eldredge and Mr. Crane. The N. H. Central, which was the extension of the Sullivan R. R., agreed to discontinue any further action in the construction of that road, and also, I believe, agree to charge, as against the Vermont Central Road, local fares and local tariff for both passengers and freight for all business coming from the Vermont Central R. R. destined to points accessible by the line by the way of Concord, over the Northern N. H. Road. That was the 99 years' contract, and which virtually absorbed the Vermont Central in the Northern N. H. Road, and it was regarded as very burdensome and iniquitous. Mr. Eldredge claimed that he realized \$12,000 per year net as the contribution made by the Northern N. H. Road to him to shut out the Sullivan R. R. against the other road, and of course this would cut us off from any benefit of access to the Cheshire Road, which was considered very burdensome. They also made a contract with the Putnam R. R., by which the latter agreed to turn all their freight over to the Northern N. H. Road for a period of years.

The effect of this contract on the part of Messrs. Lee & Eldredge, far as the Sullivan R. R. was concerned, was that all business coming from the Sullivan R. R. should be discriminated against by local tariff instead of a joint tariff, that virtually tied the Vermont Central to a single outlet for its business over the Northern N. H. Road, and shut out from it the competition for any business between Bellows Falls and Boston, or to Boston by the way of Bellows Falls. At the time of taking of this lease of the Sullivan Road that road was greatly indebted for amounts they had collected from the lower roads belonging to our proportions, which amounts were in the hands of Mr. Eldredge, Lessor of the Sullivan Road, and the owner of it substantially. Our custom for the collection of freight was in this wise: For instance, in case of freight going over the Conn. River Road, the Conn. R. R. would collect and take out their proportion and pay over the balance to

Sullivan Road. The Sullivan Road would then take out their proportion, and should hand the balance over to us. In that way Mr. Eldridge or the Sullivan Road collected our balances, which constantly accumulated, and the amount reached up, if I remember right, to about \$70,000.

I submitted the question to counsel, (Mr. Tracy and Mr. Peck,) and they had the subject under consideration for a long while, and in order to stop proceedings Mr. Eldridge then came forward and said: "If you will take my road I will surrender it to you, for I cannot pay these balances." Under the advice of counsel we took the road. Mr. Eldridge, however, was to retain \$12,000 per year, or whatever the amount was more or less, but he said it averaged that. We paid him \$18,000 per year for rent.

As Receivers and Managers we said we could not recognize that 99 years' contract, it was burdensome and oppressive upon this road, and indeed absorbed nearly all the profit of the road, and that question was pending between myself and the Northern Road when we took the lease of the Sullivan Road. Mr. Eldridge was a good deal disturbed by our refusal to recognize that contract, any further than to allow him to take the benefits of it. He wanted us to take it and carry out the provisions of the contract, which we refused to do. He said we might take away the consideration (?) for that contribution of the \$12,000 by opening the road to the traffic of the Vermont Central. Thus it was reserved that he was to have the benefit, but we were to have the benefit of opening that line to our road by reforming the contract. Thereupon the Northern New Hampshire Railroad became very much disturbed when they saw we were in possession of the road, and in a position to defeat their object of holding us to a single line and single outlet. Mr. Brainerd, Mr. Clark and myself had a contract for the taking of the Sullivan Road and a day was appointed for us to meet; meantime Mr. Stearns and Mr. ——— (acting for the Northern Road,) learning our object, gave a higher price for the Sullivan Road than we had agreed upon, and Mr. Eldridge, unknown to us, arranged for them to take the road. The lease which has been read, had then run some 3 or 4 years when it was thus interrupted by the intervention of the new owners of the road, namely, the Northern and New Hampshire, who demanded the surrender of the road immediately; we declined to surrender the road, and we had some very sharp work in regard to the matter. They then proposed to let us keep the road on the terms named in that lease, provided we would carry out the terms of the 99 years' contract; this we refused to do. They then gave notice that the lease was abrogated, and that they should commence proceedings to get possession of the road. Without any preparation I then went to the Legislature and introduced a bill to give us a charter from Windsor to Bellows Falls to construct a parallel road to theirs. I stated to the Committee just our situation; that we were tied by the contract and had no relief from it, that we had taken the Sullivan Road with a view to benefit the lease but that it was taken from us by the Northern Road, and I asked privilege to build a road from Windsor to Bellows Falls. The Cheshire and Fitchburg roads acted with us and agreed to contribute their proportion of the money to

build that line so as to keep the road open to our traffic. The Bill was passed and became law, and we commenced to survey for the new road, and were about to let a contract to build it. The Northern Road then came and said, "We don't want a parallel line, we will continue this contract if you will yield that point." I said I would not yield that point, but that we would have the new road built within the next four months unless they would retire and let us have the Sullivan Road free to use as we like. Finally they conceded the road to us under a new lease, simply asking us not to interfere as far as the Passumpsic Road was concerned, and we were not to solicit freight for Boston round that way as against the Northern Road. On these terms the Northern Road extended the lease indefinitely, and under that lease we hold the road to-day. I make these statements so that you may understand the contract referred to in the lease. With the exception that we are now paying \$25,000 per year for rent instead of \$18,000, the lease stands as it was.

Q. (By Mr. Fifield). You say you acted under the advice of counsel? A. Yes, sir; I will read the letter in reference to the matter.

[The letter from counsel, Messrs. Tracy & Peck, was here read.]

When the Northern Road took control of the Sullivan Road they also purchased the rolling stock, that rolling stock they desired to use for a branch road they were building and for which they were short of rolling stock. They would not lease to us the rolling stock, and divested the road of all equipment, even of the tools and everything. We had to restock it. An arrangement was then made with the Vermont Central Road to run to Bellows Falls, and Mr. Merrill received instructions to make such a division of it as would fully repay the Vermont Central. All the expenses were settled the usual way according to the miles run. The road bed was maintained by the Sullivan Road and not by the Vermont Central. The running of Vermont Central engines right through made it more economical to that road, particularly as we had changed the shops from Northfield to here. This made the run of an engine 122 miles per day, from here to White River Junction, and thus more service was got out of the engines. The account was kept and the Sullivan Road was charged not only with the cost of maintaining but with an arbitrary added to it, so as to make the Vermont Central Trust amply remunerated for the use of its engines. The firemen and engineers were paid according to the miles they run and each road paid its proportion of expenses on a mileage basis. This road collected all the earnings from the connecting roads, and had the use of the money for six months. At the end of six months settlements were made by the Receivers and Managers, deducting the cost they had been at and paying over to the Lessees the balance, out of which we paid our rents to Mr. Eldridge, and then settled with the Northern and then any balance that was left went to the Sullivan Road.

Q. During the time that this first case was on foot, you used the rolling stock that was on the Sullivan Railroad and kept it in repair at the Vermont Central shops? A. A portion of the time. We kept the shop running for a year I think on the Sullivan Road.

Q. You had no rolling stock on the Sullivan Road after the new bargain, and never have had since? A. No, sir

Q. When did that new contract take effect? A. I think it was to run about three or four years.

Q. Have you in your possession the new contract? A. Yes, sir.

Q. Will you produce it? A. Yes, a copy; Mr. Merrill has the lease.

[A copy of the new lease was here produced and read, the original being in the possession of Mr. Merrill.]

Q. Have you now read the only written lease there is? A. Yes, sir.

Q. And the lease which you have just read has been by parole kept up and renewed ever since, but the rent has been increased to \$25,000 per year? A. Yes, sir; and is that now.

Q. Has there been no change in the lease? A. Yes, sir. An extension was made about 3 or 4 years ago; probably 5, I think in 1870, and the lease was made with the understanding that I was to be lessee.

Q. Is that a written or a verbal understanding? A. There is no written lease. Mr. Brainerd intended to go out of the trust, and I didn't know who his successor would be and I preferred to let it rest in my own hand.

Q. And that was the parole arrangement with you? A. Yes, sir.

Q. Who was that parole understanding with? A. The Northern N. H. R. R.

Q. Who acted in behalf of the Northern New Hampshire Railway? A. Mr. Minot and Mr. Stearns. It was agreed that it should be reduced to writing, and the lease made out to me, but that has never been done. We have tried hard to have it put in that form, but it was never done, and I have no contract.

Q. This lease, I think you have said, has been renewed for five years? A. Yes, but there has been no formal rule except as to rent.

Q. And the rent has been paid according to the provisions of this written lease, which you last read? A. It has been paid quarterly as it should be.

Q. Who has paid that rent? A. It has been paid by our treasurer.

Q. By the Treasurer of the Receivers and Managers here at St. Albans? A. Yes, they have all the funds of the road in their hands.

Q. Are the accounts of the Sullivan Road kept here, at the general offices? A. Yes sir.

Q. In a book by themselves? A. So I understand, I cannot say for certain, but they should be.

Q. Is there no separate fund kept? A. Yes, the fund is separate, I suppose, but I can't tell myself, I am not familiar with the money matters of the road. The money is collected monthly and the proportion due the Central Road is charged upon the book. The Receivers and Managers have the use of the money until they make up a settlement with the lessees.

Q. When you settle an account with the roads below, that is, with the Connecticut River R. R., you receive all the money from that Road for freight over the whole line from here to where you connect with the Connecticut River R. R.? A. Yes, we receive all the money but the account is made up separate.

Q. Your Treasurer receives all the money, does he not? A. Yes, sir.

Q. Now, suppose you had a freight bill against a party living at Springfield, you would collect through the Connecticut River Road the freight charges upon the Vermont Central, Vermont & Canada, Sullivan, Vermont Valley and Vermont & Massachusetts, would you not? A. Yes, sir.

Q. And that amount would be paid in to the Treasurer at St. Albans? A. Yes, sir.

Q. And would all pass into the general fund, would it not? A. No, sir. Suppose the amount was for freight from Montreal to Springfield; the Connecticut River Line would deduct their balance and pass over the remainder, and each road in the Line would have the amount due to it. The Vermont & Massachusetts and Rutland share is put together in a book kept for the purpose. The share coming to the Central Vermont and Vermont & Canada is treated as one share.

Q. I ask you where that money goes to? A. It is received into the Treasury of this Company.

Q. Do you keep no separate banking account and no separate till for the Sullivan Road? A. I presume not.

Q. Don't you know how it is? A. No, I cannot tell, I have nothing to do with the money matters, and cannot tell you. I do not think it is kept separate.

Q. All the accounts of the Sullivan Road are kept here at the general offices and by the employes of the management, are they not? A. Yes, sir.

Q. And the rent is paid to the owners of the Sullivan R. R. quarterly out of the fund in the hands of the Treasurer here, and the receipt is taken and kept as a voucher? A. Yes, sir.

Q. From what source does the fund come that is used to fire engines on the Sullivan R. R.? A. I cannot say for certain, I think it is furnished by the Central Vermont.

Q. Is there any doubt about it? A. I cannot say for certain, my impression is that it was arranged for the Vermont Central to purchase all the wood.

Q. The Central Vermont now purchase all the wood used on the Sullivan R. R.? A. Yes, sir.

Q. And pay for it out of the Trust fund? A. Yes, and charge the Sullivan Road with what wood is used on that road.

Q. Have you in your possession or under your control the book upon which the accounts of the Sullivan Road are kept? A. They are in the office.

Q. Is there no other book to your knowledge containing the accounts of the Sullivan Road, save the general books of the management? A.

There is a book as I understand upon which is kept the accounts of the Sullivan R. R.

Q. The accounts of the Sullivan R. R. are also kept upon the general books of the management, are they not? A. I could not say for certain.

Q. You don't know how the books are kept;—never paid any attention, did you? A. No, I have not looked over the books, unless my attention happened to be called to any particular thing.

Q. Then you cannot tell this Board of Masters whether there is a separate book upon which your account and Joseph Clark's and Lawrence Brainerd's dealings with the Sullivan Road appear? A. My impression is that there is, but I cannot say positively whether the account is in an independent book or in the general books.

Q. Will you produce or cause to be produced such book or books? A. Yes, sir.

[Instructions were here given by Gov. Smith that the book be looked for.]

Q. The instructions to the Treasurer are to keep the accounts of every leased line on a separate book. Is not that so? A. He has been directed to keep the accounts of the different roads separately—each by itself, and I presume he does so.

Q. I think I understood by your statement that one object you had in taking the lease of the Sullivan Road was to secure payment of a debt of about 70,000, due to the Trust? A. Yes, I am not positive as to the exact amount; I think it was about \$60,000 or \$70,000.

Q. Did you secure that debt? A. Yes, sir.

Q. You mean the rents that would otherwise have been paid over to Mr. Eldridge? A. Yes, sir.

Q. You retained those rents and applied them to the discharge of this claim that you had? A. Yes, sir.

Q. Another motive that you had in taking this lease was to obtain control of the competing line between your road and Boston, that is, between the Vermont Central and Vermont & Canada and Boston, was it not? A. Well, I don't know that that was the motive at the time; the object we had was to stop this loss and secure the debt.

Q. Did you have any other motive at the time you took the lease than to obtain security or payment for this debt of \$60,000 or \$70,000 due to the Trust? A. I do not know. Our chief object was to secure the debt.

Q. When you negotiated for that lease were you negotiating as you then understood for your personal benefit, or for the benefit of the Trust, or both? A. I do not think any question of private speculation entered into our minds. Our primal object was to get the road out of its then position and to run it in the Line. But we had doubts as to whether it would more than pay expenses and keep the accounts good. For years it done nothing more than keep itself in repair, but afterwards it paid some profit.

Q. At the time you took the lease did you have any other purpose for taking it than to benefit the Trust? A. I have stated to you just

what we designed to do. I do not know that I had any other motive further than I have stated to you.

Q. Did you have any other purpose when you took that lease, but to benefit the Trust of which you were Receiver? A. I intended to benefit the Trust just so far as to protect them in the collection of the dues belonging to them, for the business they had done for that road and pay the debt which was owing, and if anything resulted beyond that over and above paying the Vermont Central and keeping the road in repair, I considered it belonged to Mr. Brainerd, Mr. Clark and myself.

Q. And is that what you consider now? A. Yes, sir.

Q. If your counsel had not advised that it was doubtful about your right to take the lease as Receivers would you have taken it in your capacity of Receivers? A. I do not think we should at that time. I think we should have resorted to another expedient for getting the collections, because our Receivership at the time the road was taken was only a temporary affair; it was before the final decree was rendered, and we should not have considered ourselves justified in assuming on the right of a temporary Receivership to take that road.

Q. Are you not mistaken in saying that this lease was taken before the final decree of the Supreme Court? A. I think I am not mistaken; my impression is that it was before, but I am not sure. I know the negotiations were pending for the lease before the decision of the Supreme Court.

Q. You do feel sure that you negotiated for this lease before the decree of the Supreme Court? A. I am confident that the negotiations commenced before that decision.

Q. You now desire to be understood that you would not have taken that lease in your capacity as Receivers, even though your counsel had advised you that it could be done? A. That is a difficult question for me to answer, as to what I would have done ten or twelve years ago.

Q. Do you remember that you testified before the Legislative Investigation Committee that you took that lease for the benefit of the Trust, and that the reason why you took it in your names as individuals was because Messrs. Peck & Tracy advised you that you could not take it as Trustees? A. I do not think I stated so; I believe I testified just as I do now, that I took it to secure the Trust debt.

Q. You took it to protect the Trust and not to benefit the Trust. Don't you know that the reason why you took it in your private capacity was in consequence of the refusal of the Managers of the Northern R.R. to lease it to you in your capacity of Trustee? A. No, sir.

Q. Did not they, that is Mr. Eldridge, or the Managers of Sullivan Road, did not they refuse to give you the lease in your capacity of Trustee? A. I do not remember that they did.

Q. Nor do you remember that you have once testified that it refused to give it to you in that capacity? A. I do not think I testified. The question was discussed by them and by us, and it is why we referred to counsel.

Q. And you think you did not so testify? A. I cannot say I do not remember.

Mr. Davenport :—Then I will read your former testimony. (Reads from pp. 353–4 of “Report of Investigation Committee,” as follows :—)

Thereupon the Northern New Hampshire Railroad came to terms, and said : “We will let you have the road.” They wouldn’t lease it to the Trustees and Managers for any term or time. They offered to continue the lease to us. They have done so from that time to this, and it was for that reason that the road remained in the hands of the Lessees.

Q. Then, the reason why you took the lease in your own names was because your counsel in the first place advised you that it was doubtful about your right to take it as Trustees? A. Yes, sir.

Q. And the reason why it was renewed in your names was because the owners of the road wouldn’t lease it to the Trustees and Managers in their public capacity, but would lease it in their private capacity? A. Yes, sir.

Q. What reason can you conceive to exist why the owners of that road should prefer to lease that to three individuals in their private capacity rather than to the same individuals in their trust capacity? A. Simply because they got higher security, as they thought, for it. Personal as against a Trust.

Q. Your personal security was better than the Trust security? A. Yes, sir; in the event of a ——— they could get more immediate remedy.

Examination by Mr. DAVENPORT continued.

Q. What do you say now as to the reason why you took the lease in your individual name was because your counsel advised you that it was doubtful about your right to take it as Trustee? A. I have stated to you the reason and read the letter from counsel, and if you will go back to my first statement you will find the explanation right. We had this large debt against the Sullivan Road, that was the primal motive and took this lease to prevent that debt accumulating.

Q. To that extent it was beneficial to the Trust. A. Yes, sir.

Q. You would not have taken the lease had it not been for the fact that that large debt was outstanding? A. No, sir; I don’t think we should have thought of it.

Q. Has this lease, Gov. Smith, been profitable to you or otherwise? A. After a certain period it produced as I have stated a profit.

Q. Are you able to tell what the net profits have been on that Sullivan lease from 1861 down to the close of your receivership? A. I cannot tell, sir; but the books will show.

Q. Is there no way by which it can be ascertained? A. I think the books will show.

Q. Will you produce the books or furnish a statement? A. The books will be here and you can see them.

Q. Which of the officials under you will be able to tell us how and in what manner the accounts of the Sullivan Road have been kept? A. Mr. Merrill had the whole charge of that. I thought he would be here this morning, but he will be here, I presume, to-morrow morning.

Q. Is there no official here now in your service who can tell us about it? A. I do not think there is a man here who had anything to do with

the keeping of these accounts. Mr. Merrill had the whole charge of the and he will be here to-morrow, or in a few days.

Q. You have never accounted to the Trust for any of the profits the Sullivan Line. have you? A. No, sir.

Q. During Mr. Brainerd's lifetime what was done with the profit derived from the Sullivan Line? A. At the end of six months thereabouts, as near that period as possible, the accounts were made and expenses were paid, and whatever balance there was in the hands of the Treasurer was paid over to Mr. Clark, Mr. Brainerd and myself. If the Trust wanted to use the money they gave their notes for it, whatever there has been up to the time of the closing of the receivership was paid to the Lessees, except after the board of management came in and there was then a different division.

Q. Then during Mr. Brainerd's lifetime the profits, whatever they were, have been paid to Messrs. Clark, Brainerd and yourself? A. Yes, sir.

Q. Since the death of Mr. Brainerd who has received the profits? A. Benjamin Cheney, Joseph Clark, W. C. Smith and myself.

Q. Did Mr. Taylor receive any? A. I don't know whether Mr. Taylor had any or not.

Q. Then if Mr. Taylor did not have any of the profits, they have been divided between Worthington, Joseph Clark, Cheney and yourself? A. Yes, sir.

Q. Has Mr. Cheney received an equal share with you, Worthington, and Joseph Clark? A. I should think not.

Q. In what proportion has the profits of that lease been divided among you? A. I cannot tell. Since July 1st, '73, for two years, the lease was assigned to the Central Vermont. For that period of time prior to '73, there has been no settlement with anybody.

Q. Where are the profits for those two or three years? A. In the hands of the Treasurer of this Receivership.

Q. Now, back of that two or three years, and after Mr. Brainerd's death, how were they divided? A. I cannot tell you at this moment precisely, but they were divided between Mr. Cheney, Mr. Clark, brother and myself; my impression is that I had about \$10,000 per year but I cannot give the percentages.

Q. When you had \$10,000, what did Worthington have? A. I cannot say.

Q. Is this on the book? A. I think the book will show.

Q. Will you produce that book? A. Yes, sir. You will find everything in the book.

[Court here adjourned until 2 p. m.]

AFTERNOON PROCEEDINGS—JULY 22.

Examination of Gov. Smith by Mr. DAVENPORT—continued.

Q. Will you tell us who it was that you and your associates, Clark and Brainerd, made the contract with for the management of the Sullivan Road, in connection with the Vermont Central and Vermont & Canada. I understood you to say that after you took the lease of the Sullivan Road, there was an arrangement made with the Lessees of that Road in connection with the Vermont Central and Vermont & Canada? A. I did not mean to be so understood.

Q. There was such an arrangement made, was there not, between you and Clark and Brainerd? A. No specific arrangement, sir, any further than that Mr. Merrill received instructions from us as to the method of operating that road and keeping the accounts. We had nobody to make arrangements with but ourselves. We treated that road as a different road. Our instructions to Mr. Merrill were in all cases in making his accounts for any disbursements of money for that property, to be extremely careful that the Trust was in nowise injured, and that if any doubt existed in his mind to give this doubt in favor of the Trust rather than in favor of the Sullivan Road.

Q. Whether the Sullivan Road would make or lose by the keeping of those accounts would of course depend upon how they were kept, would it not? You left the whole matter to Mr. Merrill, did you not? A. That question as to the profit or loss of the Sullivan Railroad could not be involved in the keeping of the accounts.

Q. It was left to Mr. Merrill to keep the accounts as he thought they ought to be kept? A. Yes, sir.

Q. You only gave him the general directions and told him not to let the Trust be cheated? A. Yes, sir.

Q. And if there was any advantage derivable any way to give it to the Trust as against the Sullivan Road? A. Yes, sir.

Q. Well, now suppose, if it is a possible supposition, that the Trust was not kept faithfully, who would derive the benefit from the failure to keep it whole? A. If the Trust was defrauded the Lessees of that road would derive the benefit from it.

Q. Now it is true, is it not, that the 26 miles of road between Windsor and Bellows Falls make a profit, is it not? A. Yes, sir.

Q. And has yielded a profit to the Lessees averaging between \$40,000 and \$50,000 per annum, for the ten years preceding 1873? A. Well, I don't know what the average was; I should think the average profit was—

Q. Is not the average profit \$40,000 to \$50,000? A. I cannot say.

Q. Is it not true that for the ten years preceding the close of your Receivership the Sullivan Lease paid to the Lessees an average profit of

from 40 to 50,000 dollars per annum? A. I cannot answer that. I could not say positively what the amount was, but the books will show

Q. I suppose it did average a profit? A. Yes, sir.

Q. Don't you know that during the time mentioned it averaged a large profit? A. I should think that for the whole period of time it averaged a profit, but at first it paid no more than its expenses. My impression is that some years the profit ranged from \$15,000 to \$30,000 per year.

Q. Now that is your best recollection? A. That is my present idea. I have never examined the accounts. I admit it was a profit.

Q. And you testify that your best recollection of that profit is that it ranged from \$15,000 to 30,000? A. Yes, sir.

Q. Is there no other part of the road between Bellows Falls and Rouse's Point that has paid any profit to the Trust? A. All the road pays profits to the Trust, and I don't think the Sullivan Road has paid more—my impression is that it has not paid any more net profit per mile, nor as much, certainly no more—than the rest of the road.

Q. Your impression is that the Central Road and Canada Road have paid as much profit per mile as the Sullivan Road? A. I should think they had. There is 167 miles of road, and the profits vary from 25 to 30 per cent. of its gross receipts. On both the roads there is where we denominate extraordinary expenses, and they would be more upon this road than upon the Sullivan Road, the traffic is larger and the demands are greater; our shops are here, and our headquarters are here. Then there is more bridging on this road than upon the other.

Q. Have you not two bridges across the Connecticut River as one across the Sugar River; three most expensive bridges on that road? A. I think the length of bridging on that road is less per mile than upon the Central Road, but I am not positive. I have never figured it to see. On that road there is not so large an amount expended in extraordinary expenses as there is on this; but deducting these expenses I think the earnings of the Central Road would be as large as those of the Sullivan Road.

Q. Can you tell us what proportion of freight and passenger traffic passing over the Vermont Central has gone over the Sullivan Road? A. Do you mean at this time?

Q. Well, during your Receivership. I don't suppose you can say accurately, but give us a general idea? A. I can tell you exactly what you want to know, by the books.

Q. It is not important enough for that, give us a general idea. A. I should think that for the last two years a third of the freight of the Vermont Central Road has gone over the Sullivan—perhaps more may be one-half of it. At the time we took the road I should think perhaps a fifth of the traffic—perhaps a quarter passed below Waterbury River Junction.

Q. But latterly you think one-half of it has gone over the Sullivan Road? A. I should think one-half; there has been more business going down over the Cheshire Road of late than there used to be. It gives 14 miles additional haul to the Central.

Q. Why do you not send it over the Rutland Road, and thereby get 26 miles more haulage? A. Well, it costs much more to send that way in consequence of the heavy grade. There are not so great facilities for shipping cattle over the Rutland Road as there are over the Sullivan. Shippers prefer to send cattle over the Sullivan Road because there is much better accommodation on that road. There are no feeding places on the Rutland Road and on this road there is one at Roxbury. We are compelled by Law of Congress to have feeding places for cattle. For this reason and in consequence of the accumulation of freight from station to station it is necessary to send it the Sullivan Road way. All these matters in regard to route are regulated by shippers, and they send their freight whichever way they please. There is another thing that has caused freight to go that way; in the strife between the Cheshire Road and Northern Road, it is claimed that the Cheshire Road have been giving drawbacks to shippers upon the line of road, to draw freight for Boston over their road, for the same reason the Cheshire Road has been very active in soliciting freight from the customers on the line of road, and the business has been stimulated a good deal on that account. Our rule is to send all freight according to shippers' directions.

Q. I do not know that I have your idea with reference to the profits accruing to the Vermont Central and Vermont & Canada proprietors of this road, but I understood you to say that the profits accruing to the Trust upon the Vermont Central and Vermont & Canada were equal to the profits accruing to yourself individually—proportionate to the length of the road—on the Sullivan Road? A. I said that the percentage of net profit on the Sullivan Road was no more per mile in my judgment than the profit on the rest of the line, that is my belief.

Q. About what was the amount of indebtedness against the Trust at the time you took the receivership in '58? A. If I remember right it was about \$130,000 or \$150,000.

Q. And that was for back rent due to the Vermont & Canada Road? A. No, independent of that, including that it was two or three millions of dollars.

Q. What was the floating debt when you took possession of the Trust as Receiver? A. It was somewhere in the vicinity of \$150,000.

Q. What was the amount of bonded debt then resting on the Vt. Central Road? A. The first mortgage bond was \$2,000,000, and the second $1\frac{1}{2}$ million dollars, and accumulated interest.

A. In round numbers what was the amount of accumulated interest? A. If I remember right the accumulated interest on the first mortgage was in '58 over \$700,000.

Q. When you took the Receivership the Road had already been constructed from Rouses Point to Windsor, had it not? A. Yes, sir.

Q. What, according to your belief, was the amount of the capital stock of the Vermont & Canada Road in '58? A. \$1,348,500, I think, was the capital.

Q. How much rent—accrued rent—was there behind at the time you were appointed Receiver? A. Well, the last rent was paid in 1854—in June.

Q. Then there had been 8 per cent. upon what you say was capital stock, that had been accruing from 1854 to '58? A. Yes, and the interest on it.

Q. What you have just said refers to the amount of outstanding liabilities against the Trust, and against the roads at the time you were appointed Receiver? A. Yes, sir.

Q. Since you have been appointed Receiver what additional have you constructed or helped to construct pertaining to the Vermont Central or Vermont & Canada? A. Under the limited charter of the Legislature, we built the Branch into Burlington.

Q. What is the length of that Branch? A. It extends from bridge over the Winooski, through the tunnel, and is not far from miles long.

Q. What road beside this Burlington Branch of two miles did you build? A. The Swanton Junction Branch.

Q. From what point to what point does that extend? A. From Swanton to the Canada Line.

Q. Is that all the new road you have constructed upon the Vermont & Canada part of the Line? A. Well, yes, all the new road, we have added several extensive sidings.

Q. You have built no new road except new side tracks upon Vermont Central proper? A. No, sir.

Q. Will you now state, Gov. Smith, what was the amount of the First Mortgage of the Vermont Central Road at the time your Receivership closed in 1873? A. The First Mortgage had been extended three millions of dollars; it was originally two millions, but by capitalizing the interest it became three millions.

Q. How many years' interest were unpaid at the time your Receivership closed, upon the 1st Mortgage? A. I have just answered. I think the last interest was paid in '53—that would be five years.

Q. You do not understand my question. Your receivership closed in 1873. I want to know how much unpaid interest was then due on the First Mortgage? A. One year's; the last interest was paid in June, 1872, and we surrendered the road July 1, 1873.

Q. What was the amount of the Second Mortgage at the time your receivership closed? A. There had been no interest paid on the Second Mortgage since 1866.

Q. Had there been any increase of the Second Mortgage by capitalizing the interest? A. No, sir; the 2d Mortgage was extended six millions.

Q. The interest prior to '66 was settled by the taking of the Vermont & C. bonds? A. Yes, sir.

Q. So that at the close of your receivership the full amount of the Second Mortgage was due, with interest thereon from '66? A. Yes, sir.

Q. At that time what was the amount of Vermont & Canada bonds outstanding? A. Three millions of dollars.

Q. Let me ask you, what rate of interest did the First Mortgage bear? A. Seven per cent.

Q. What interest does the Second carry? A. Seven per cent.

Q. What was the interest of the Vermont & Canada stock? A. Eight per cent.

Q. What was the amount of the floating debt outstanding against the receivership at the time you closed it in 1873? A. I cannot answer that question without reference to the books.

Q. Will you give us a statement from your books, showing what the floating debt was at that time? A. I will try to. I think it was all made up at the time.

Q. Cannot you tell within a million dollars? A. Yes, I think so—within a hundred thousand.

Q. Was it not \$2,800,000 in round numbers? A. I think not, sir. At the time our paper went to protest in '72 it was—my impression is that it was—about \$1,800,000.

Q. Now, Gov. Smith, I want to find out something about what become of the money realized from these loans. When was the first loan made by the Trust negotiated? A. Do you mean the equipment loans?

Q. Yes; when was the first loan negotiated? A. In November, 1865—\$700,000.

Q. Was that loan of \$700,000 immediately realized? A. Yes, sir, it was all realized at par.

Q. You realized the whole of that loan at par? A. Yes, sir; I have no recollection of any going at less than par.

Q. At what rate of interest was that loan negotiated? A. Eight per cent.

Q. And you admit that the Receivership should be charged with the full amount of that loan at par, without any deduction for commission? A. Well, I cannot say anything about commissions. The loan sold at par, but how much of it was sold through the agency of brokers and commission men I cannot tell. The books may possibly show some charges for commissions, but I do not know. I had nothing to do with the sale of it.

Q. Was that \$700,000 outstanding at the time your Receivership was closed in July, 1873? A. Yes, sir, and is outstanding now.

Q. When was the next loan negotiated? A. In 1867; the amount was \$300,000, and the loan was called the Second Equipment Loan. I forget whether it was negotiated in May or in the fall of the year.

Q. Did the Trust receive par for that? A. I think none of the bonds were sold at less than par. When I say that I mean that the market price paid was par, and whatever commissions were allowed, if any, was charged to us and will appear on the books.

Q. Were there any particular brokers who negotiated these loans for you? A. Not that I know of. Mr. Cheney had the management of the whole affair. I had nothing whatever to do with it, one way or another, in the sale of the bonds. I have an impression—although it is but an impression—that Mr. Cheney himself disposed of it, but that there was some passed through the hands of some of the bankers or brokers. I know one of the loans passed through the hands of Spencer,

Villa & Co., and Mr. Stevens, President of the Globe Bank, sold son and I think was allowed a commission.

Q. When was the next loan negotiated? A. I do not recollect exactly. I think in 1870; perhaps '69.

Q. What was the amount of that loan? A. The decree authorized \$500,000, absolute. That was in April, 1869, and there was an additional decree for \$500,000, if it should be required, for the necessity of the road. We sold the \$500,000 that year, and then my impression is that the next year or the year after, sometime after, the question arose in regard to the other \$500,000, and after a consultation with the Committee of Trustees and Managers it was considered advisable to put it on the market, which was accordingly done, thus making the amount \$2,000,000.

Q. Did the receivership realize par for that? A. I think it did less the broker's commission.

Q. It was not sold, any part of it, for less than par, was it? No, sir, I think not.

Q. What percentage did it bear? A. 8 per cent.

Q. And that loan was outstanding at the time your Receivers ended? A. Yes, sir, and is outstanding now.

Q. The next, if you please. A. Was a loan of \$1,000,000, guaranteed by the Vermont & Canada Co., I think, in 1871.

Q. Was that an 8 per cent loan? A. Yes, sir.

Q. Did the Receivership get par for these bonds? A. They sold but \$904,000, and have \$96,000 on hand, still unsold. Those that were sold realized par.

Q. You say there are \$96,000 still unsold; where are they? In the hands of the Receivers.

Q. In the hands of Smith, Clark and Cheney, or in the hands of the Central Vermont? A. In the hands of the Central Vermont.

Q. And \$904,000 of that loan is now outstanding? A. Yes.

Q. When was the next loan? A. In the Spring of 1872. The amount was \$2,500,000, at 8 per cent., in bonds, \$700,000 of which was ordered by the Court to be reserved to retire the first equipment loan.

Q. Where are the \$700,000 in bonds which the Court thus ordered to be kept to retire that first loan? A. In the safe.

Q. In the hands of the Receivers? A. No, sir, in the hands of the Central Vermont.

Q. They are in the hands of the Central Vermont as Receivers. Yes, sir. The Court ordered them to be placed in the New England Trust Co., or some other safe deposit, but the Receivers and Managers have not been able to agree with any Trust Company as to the charges for taking them on deposit, and have not felt fully justified in making the deposit and incurring that expense. They will not take charge of them except for a certain percentage, which is charged yearly, and the Receivers thought it best to pack them up and let them lie until the time when the others matured, and then to deposit them and save the yearly expense that would accrue whilst in deposit, and could keep them quite as safely as a Trust Company. They are

all ready to send to the New England Trust Co, We have had several applications for them.

Q. How much of that \$2,500,000 has been negotiated, and how much is now outstanding as indebtedness against the Trust? A. I think one million and either four or six hundred thousand dollars has been negotiated.

Q. One million in round numbers? A. Yes, sir.

Q. Where is the remainder? A. Eight hundred thousand or thereabouts are now in the hands of the Central Vermont as Receivers.

Q. What was done with the avails of the million of dollars of bonds that were negotiated for this last loan? A. They were applied to extinguish the floating debt.

Q. What did the Receivership get for the one million in round figures which you negotiated? A. They got 90 cents on the dollar.

Q. You sold them at 90 cents on the dollar. Did you exchange with the holders of the floating debt on that basis? A. There was very little exchange; the bonds were mostly sold for cash.

Q. You say that \$800,000 or thereabouts are now in the hands of the Central Vermont? A. Yes, sir.

Q. Have they been pledged as security for loans of money? A. Some of them. There is \$73,000 in the hands of Gov. Page. The bonds are mostly pledged at the Banks where we borrow money.

Q. Are they pledged by the Central Vermont as a corporation, or as Receivers? A. As Receivers. They are left as a collateral at the Banks where we do business. After we sold the million dollars of bonds or thereabouts, an arrangement was made with the Banks in Boston to extend our loan, and these bonds are held by the Banks as collateral of that loan. The order was that the Central Vermont, as Receivers, should assume these obligations and pay them, and the bonds, amounting to \$800,000 or thereabouts, were turned over to the Central Vermont.

Q. Gov. Smith, at the close of your receivership, if I understand you rightly, you had 12 miles of Road more than you had at the beginning of the Receivership? A. Yes, sir.

Q. You had 12 miles more of Road attached to the Central Vermont and Vermont & Canada, belonging to the Trust and comprising the Burlington Branch and Swanton Branch, at the close than at the beginning of your receivership? A. Yes, sir.

Q. For this additional stock of the Vermont & Canada and for the additional indebtedness that there is outstanding, you have that 12 miles of road to show and the improved condition of the main Line? A. And the wharves at Burlington, which you have not included.

Q. You had the extra length of Road, the wharves at Burlington, the general improvement of the Line, and the improved equipments? A. Yes, sir.

Q. And that is all the receivership has to show for this additional Vermont & Canada stock and the millions of dollars of money borrowed. For \$3,900,000 borrowed money, and \$2,000,000 floating debt? A. The floating debt at the close of the receivership was \$1,800,000.

Q. Now, Gov. Smith, to go back to a question which I asked you before. Will you please explain what you meant by your statement that the Sullivan Road had been no more profitable to its lessees than the other roads (that is the Vermont Central and Vermont & Canada) had to the Trust during the time they have been under your management?

A. I will endeavor to answer that question. What I intended to be understood was that the value of a railroad consisted in what it would produce over and above expenses. The gross receipts of a road are measured by the business it does, the gross expenditure is measured by a great variety of elements. The extraordinary expenses are much more on this road than upon the Sullivan Road. Most roads use their capital to meet extraordinary expenses, but we have paid those expenses out of our earnings, and carried the amounts into our running expenses account. I think the Sullivan road will show no more net profit per mile of road than the Vermont Central or Vermont & Canada. When I came in to the Trust this road was badly involved in litigation. Very soon after I came in the parties got together and settled that litigation. One of the conditions then made was that the construction account should be closed, that no independent construction account should be kept and maintained as formerly, but that everything should appear in the operating expenses of the road. We considered that a great injustice to ourselves, because it made our road show very poorly by comparison with other roads which did keep a construction account. We had to spend a very large sum ballasting the road, improving its condition, new depots and other necessities, which should have gone into the capital account, but which had to be put into our current operating expenses account, to meet the wish of Mr. Robinson, Mr. Hall and Mr. ———. Mr. Robinson was very pertinacious upon that point, and insisted that we should close the construction account and charge everything into the expense account, consequently our account, as we rendered to the Court, embraced all these items—every dollar paid out by the road, whether for law expenses, ballasting, new depots, new bridges—everything went into the current running account for the six months. Consequently it showed but a comparatively small percentage of net profit out of the gross. For instance, if we built a new engine—we had 42 when I took the Trust, we have now about 90—when we built a new engine that expense would come out of the current operating expense account of that six months, which should not have been the case, because that engine would last a long time. In that way the current expense account was made very much larger than it probably was, which made the net profit appear correspondingly small. Now deducting this extraordinary expense account, which the Sullivan Road had none of—it had no occasion to expend that way—it will demonstrate what I stated, that the net earnings of the Sullivan Road per mile has been no more, and I do not think as much as the net earnings on the Vermont Central and Vermont & Canada. The Sullivan Road paid its working expenses, and it also contributed every six months to the enlarged expenditures of this road, which was considered very unjust to us, but we said that considering the relation in which we stood to the Trust we preferred to submit to the injustice.

rather than err on the other side, and take a dollar from the Trust for our benefit.

Q. (By Mr. Edwards). I understand that the Sullivan Road has helped contribute to the equipment of this road? A. Yes, sir. It has contributed to the expense of equipment and maintenance of this road.

Q. There is one question I omitted to ask you with reference to the amount of money realized by the Receivers for the issue of Vermont & Canada stock. How much of the \$1,700,000, in round numbers, of additional Vermont & Canada stock came into your hands in the shape of money? A. I shall have to refer you to the books for that information. Included in that amount was the rents; we then received \$250,000 for the construction of the Burlington Branch; \$250,000 was distributed to bondholders—that was in '68. When we arranged with the Vermont & Canada to bring their capital up to \$2,000,000, they threw off some of their back interest, and they capitalized enough of it to bring it up to \$2,000,000; that left \$97,000, which, with interest, soon amounted to \$114,000, and that was paid off in Vermont & Canada stock, so that of the \$250,000 we had the balance less \$114,000. The next \$500,000 which was issued was to settle up accounts which were due on our books against them, and which had been made up of various items as payment of their costs in the suit they brought.

Q. The question is, did you not have \$500,000, and have you not charged the Trust with that amount? A. The books will show the whole transaction.

Q. Gov. Smith, will you furnish to the Masters a statement of the total floating debt outstanding July 1st, 1873? A. Yes, sir, if it is required.

Q. In your method of keeping the accounts between the Trust or the Receivership and the Receivers personally, so far as the Sullivan Road is concerned, suppose some freight was lost on the Sullivan Road, who would bear the loss? A. The Lessees of the Sullivan Road.

Q. That would be charged over to you? A. Yes, sir.

Q. Suppose a bridge was burned down and it had to be rebuilt, who would bear that expense? A. The Lessees.

Q. You would take the material on hand belonging to the Trust and go on rebuilding that bridge, would you not, and credit the Trust for the amount of material so used? A. If we used any material from this road it would be charged to us. We do not keep on hand much material for bridges, only a few supplies.

Q. You would put your bridgemen, who are employed by the Trust, right at work upon the Sullivan Road to rebuild a bridge that was destroyed, would you not? A. That would depend upon circumstances—whether the bridgemen were at work elsewhere or not.

Q. You do not keep bridgemen upon the Sullivan Road, do you? A. No, sir.

Q. Suppose a man got hurt upon the Sullivan Road, under such circumstances that that road would be responsible, who would bear that expense? A. The Lessees would pay it.

Q. Do you know of any such circumstance? A. Yes, sir.

Q. What was it? A. A man was killed at a crossing.

Q. Who was that man, and in what town did the accident happen?
A. I forget his name. I think he lived in Boston. The accident occurred in Charlestown, just this side of Charlestown.

Q. That man was killed, and under such circumstances that you considered the Lessees liable? A. We did not admit our liability. Our train was behind time and the question arose whether we came within the laws of New Hampshire, which—

Q. But you came to the conclusion that you had to settle it? A. Yes, sir; and we paid \$7,500.

Q. Which was charged to the Lessees? A. Yes, sir.

Q. Will you produce the book showing that this charge was made to the Lessees? A. We settled the matter as Lessees and directed the amount to be paid out of the fund, and charged to the Lessees.

Q. You don't know whether it was charged or not? A. No, sir; it should have been.

Q. Did you ever trouble yourself to find out whether it was charged or not? A. No, sir; I did not think it necessary.

Q. Now, you do not know that this very \$7,500 which you have been testifying about is charged to the Trust as part of its general expenses, do you? A. It would probably go into that account, but would be re charged from there to the other account.

Q. Then it should be on the books of the Trust, and on those of the Sullivan Road also? A. Yes, sir; they should charge it right over to us, but I have never looked to see if it was so charged over; it was directed to be charged to the Lessees and I have not thought it necessary to look.

[Col. Walker referring to the Ledger H, of the Trust, found the item on page 270—amount, \$7,521.]

Gov. Smith remarked: That may be simply a book entry by Mr. Wilbur to regulate his own account. I know the money was paid out of the Sullivan Road money.

Q. Do you know of any other instance where the Sullivan Road fund, or you and your associate Lessees' fund was made chargeable for any loss or damage happening upon that road since you have been Lessee? A. I do not recall any instance. Mr. Merrill was very particular and always told me.

Q. Did the instance of killing the man at Charlestown occur during Mr. Merrill's management? A. Yes, sir.

Q. Was there any other instance of any serious damage happening to any person on that road that you paid for? A. I do not know, sir. All these details are settled by the subordinate officers of the road. These small details did not come under my personal notice unless it happened to be a large amount.

Q. Is it the custom on your road when an employee is injured in your service, to take care of him? A. Well, we contribute in different ways to his support.

Q. In your general expense account there are occasional bills for doctor's bills, etc., for persons injured while in your service. A. Yes, sir.

Q. Now, suppose a man was injured on the Sullivan Road, and it was deemed proper to take care of him, to whom should that be charged, to the Trust or to the Lessees of the Sullivan Road? A. I never knew of any such case, and it is hard to take an imaginary case and say what would be done.

Q. Do you know of a case happening at Bellows Falls and a man being injured there on the Sullivan end of the road? A. No, sir; I never heard of such a case that I know of. There may have been such a circumstance, but it never came to my knowledge.

Q. Why did you take care of Mr. Bassett? A. I do not know. I think he got run over on the Rutland Road. He worked for us; he was a car inspector. We keep a man at Rutland to examine our cars.

Q. Is this the voucher for the \$7,521? A. Yes, sir; and I presume you will find it charged to the Sullivan Road; it should have been.

Q. We cannot find it so charged. I will read this voucher.

[Voucher read by Mr. Davenport.]

Gov. Smith explained in regard to this voucher as follows:

"Mr. Cheney, after we decided to pay that sum, wanted his lawyer to draw out a receipt for it. I don't know that the question of the relation of that road came up, one way or the other. I was not present at the drawing up of the discharge, and do not know whether the voucher was made out in our names or not. The Lessees should have been charged, and directions were given by myself personally to do it, and I think you will find it so when you get to the books."

Q. Will you furnish a copy of the voucher? A. I will have a copy put in.

Q. The voucher that has been produced comes from the vouchers to support the general expense account of the Receivers and Managers, does it not? A. I don't know. It is the first time I have seen the voucher. I do not know where it comes from.

Q. Did you order it paid? A. I did.

Q. Did you order it paid from the funds of the Sullivan Lessees? A. I did.

Q. Was your order obeyed? A. I do not know. I think it was obeyed. If it has not been, it is an error on the part of the clerks.

Q. I will now call your attention to the M. & Vt. Junc. Road. When was that road built? A. I cannot tell, exactly. I think it commenced running January 1st, 1864, but I am not positive.

Q. From what point to what point does that road extend? A. From the Canada Line—the town of Highgate, to St. Johns.

Q. What is the distance from Canada Line to St. Johns? A. I think it is about 24 miles.

Q. What is the length of the M. & Vt. Junc.? A. I think it is something over 24 miles.

Q. Who obtained the charter for that road? A. Mr. Phillip Moore, of Canada, aided by people on the line of road and at St. Johns.

Q. Was that charter obtained at your suggestion? A. No, sir.

Q. You had nothing whatever to do with the matter until after the charter? A. I had nothing to do with it further than, I think, Mr.

Moore wanted I should go before the Committee of Parliament to state the provisions of the charter.

Q. When was the charter for the road obtained? A. I think 1861. I think the Rutland Road were quite as active in getting the charter as anybody. Judge Smalley, President of that road, was there several times.

Q. By whom was that road built? A. By the Montreal & Vermont Junction Railroad Co.

Q. Who were the contractors for building the road? A. D. Linsley & Co.

Q. Who constituted the Co.? A. I do not know. I think there was a man from Chicago and if I remember rightly there was Mr. George Linsley, brother to D. C. Linsley. They constituted the Co.

Q. From what source did the funds come to build that road? A contract was made with Mr. Linsley, who agreed to take a certain amount in cash, a certain amount in 1st mortgage bonds of that road and the balance in stock for the construction of that road.

Q. Who did he make that agreement with? A. The Board of Directors.

Q. Who constituted that Board of Directors? A. Phillip Moore, A. B. Foster, Des Rivieres, Mr. Clark, Mr. Hatch and Mr.—(I do not remember the names of all), and myself.

Q. Then the majority of the Board of Directors were in your interest? A. Yes, sir.

I may as well state here that the charter was obtained in Canada under the charter of the Vermont & Canada. They were required to build their road from Essex Junction to Canada Line, to the town of Highgate. It was one of the branches of the main line.

The Rutland & Burlington R. R. made a survey for their extension running west of here, and running to the town of Highgate; a survey was also made from Highgate on or near the present line to St. Johnsbury. It was a great strife between the two roads. The contest resulted in the Vermont & Canada Road getting the charter. The Vermont & Canada Road was bound to build this road to Canada Line within 18 years under penalty of forfeiture. The Vermont Central then built their road into Burlington, and the Vermont & Canada Road obtained the charter as against the R. & B. R. R. At this time the Ogdensburg Road changed its location from Plattsburg to Rouse's Point and the road changed its location under an amended bill from the Sand Burgh and built their road through. That was the occasion of the quarrel between the Rutland Road and Vermont Central. Then the Rutland Road obtained from the Legislature a charter for an independent Road to Canada Line. The 13 years elapsed and no road was made; an application was made to the Legislature for forfeiture of the charter, and in 1858, the very year I came into the Trust, the Legislature declined to declare the charter forfeited, but extended the period years on condition that the Vermont & Canada built the road from the end of the Rutland Road in Burlington to some point in the town of Milton.

An arrangement was then made with the Vermont & Canada and Rutland Roads, by which, on condition that we would build the line into Burlington and build this road through, they would consent to a modification of the Charter, relieving Canada from the construction of our road and accepting the road from the bridge over the Winooski river into Burlington in lieu thereof, provided a joint arrangement could be made. This modification of the Charter was made at the next session of the Legislature, in '59, relieving us from the necessity of building the road west of the town.

Judge Smalley, meantime, insisted that this road should be built—that stimulated the Charter and got it going. I concluded the purchase of the S., S. & C. Road at that time. The Grand Trunk Railway were in the contest with me for the S., S. & C. Road, and purchased a portion of the securities, but I succeeded in getting the control of the majority of securities. Judge Smalley and I then went to Canada to meet the gentlemen who had control of this Charter, and who had been offered a handsome bonus by the G. T. R. for its surrender. Meantime, the Ogdensburg Road, thinking that if we got that line that we might, acting with the G. T. R., form an all rail line round them, they bid high for the Charter, and we had some very hard work. We eventually obtained control of the Charter, and the road was surrendered to us. An arrangement was then made between the R. & B. R. R. and myself by which they were to contribute \$50,000 and our road was to contribute an equal amount. Meantime the management of the Rutland Road changed. Judge Smalley went out and Judge Stewart came in, and he was not willing, and did not feel justified or able to carry out the arrangement made between the R. & B. R. R. and myself for the loan of the \$50,000 as a permanent loan at 6 per cent.; thereupon the control of the Charter came into our hands.

Q. Who do you mean when you say "our" hands? A. I mean the parties interested in the road—Mr. Brainerd, Mr. Clark and myself, and we put in Mr. Hatch as a fourth man, to make a majority in our interest.

Q. You were acting in the interest of the Vermont Central and Vermont & Canada Roads? A. We obtained the Charter in their interest.

Q. Who was this D. C. Linsley, what relationship existed between him and Mr. Hatch? A. He was Mr. Hatch's son-in-law. The contract to build the road was given to him, and he agreed to build it for \$440,000; he was to receive the \$80,000 or thereabouts contributed by the towns in cash, \$200,000 of the first mortgage bonds and the balance he agreed to take in stock. We had very hard work to get up these municipal contributions. Judge Smalley and I were both invited to make speeches to the people; we did so, and tried hard to urge the towns to take up contributions. We succeeded in doing so, but they made us publicly pledge ourselves that if they made their subscriptions, we would in good faith go on and build the road. Mr. Linsley took the contract at the commencement of the war. Very soon the currency became disturbed, gold went up to over 200, Mr. Linsley failed, and the work was stopped. Meantime the Vermont & Canada had gone on with its road up to the Highgate line. The work was more than two thirds

done when those concerned in its construction failed. We stipulated with Mr. Linsley that if he would go on with the contract, we would guarantee him a certain amount of cash in exchange for stock. Go was then running from 250 to 270 per cent. We had pledged ourselves that we would build the road; and a meeting of the Vermont & Canada Co. was called to see what should be done in the matter. The Vermont & Canada Road proposed to furnish the money to build the road, but was found impossible for them to consider that proposition, but if they would go on with the road they would purchase it off our hands at cost.

By Mr. UNDERWOOD.

Q. When you say "we" who do you mean? A. The Montreal & Vermont Junction, as representatives of that road. Mr. Moore, President of the road.

We thereupon considered the matter and proposed to Mr. Brainerd that he should unite with Mr. Clark and myself, and we would go on with the road. Mr. Brainerd said he was too old to enter into such an arrangement, and after several consultations with the Vermont & Canada Co. (that is Mr. Clark and myself,) decided to furnish the money to complete the road, on condition that they would take it off our hands when it was done. We then paid Mr. Linsley's debts—about \$25,000—took the road and went on with its construction. Mr. Clark and myself individually undertook the matter; we never had a dollar from the Trust or this road. We had a permanent loan of \$50,000 from the Northern Road, and the balance of the money was raised by Mr. Clark and myself, some in Boston, Burlington, Troy and Middlebury. We thus carried it on, sometimes paying as high as 270 per cent. for gold—we had to pay everything in connection with the work, in gold. This swelled the cost very largely, bringing it up to over \$700,000. Mr. Clark kept the whole account of disbursements. Sometimes I raised money to carry it on, sometimes he did, and whenever he called on me for funds I raised what I could. The road being completed, the question arose, what should be done. Mr. ———, Mr. Robinson and Mr. Pease gave us their assurance that it should be taken off our hands. We called upon them to see what they would do. We had several meetings. Judge P——— was one of the committee. The difficulty was to decide what should be done with the road, they did not want to increase the stock, and the question was whether they as a leased road, could take this road unless it could be got on to the Trust—which there was no way of doing; we, of course, could not make any arrangement ourselves. Mr. Brainerd, Mr. Taylor and Mr. Merrill were the only parties that had any interest in it. It was finally arranged that for the present the Trust should take the road and operate it and divide the earnings. We agreed to keep the road in repair, and this road were to run their engines on the Trust's road. The receipts were very small at first, and it did not realize enough to interest on the bonds, we could not even pay the interest on the money we had borrowed. We had a debt of several hundred thousand dollars—Mr. Clark and I. We had to build three bridges before we could get one to stand. The depots were only sheds. The ballasting of the road

erection of depots and other expenses, all came out of our portion of the earnings. I had to assume personal obligations and risks which I would never assume again for anybody. The last year but one before we turned the road over to the Committee of the Bondholders, Mr. Pinkerton and Mr. Drury, in looking over the earnings, found that our portion amounted to \$80,000 for that year. Messrs. Pinkerton and Drury said: "This is not right; we had better take the lease of the road or carry out our arrangement with you. It is becoming a matter of comment in the papers that you are making a large amount of money out of the road, and we had better relieve you of it." We figured it up and found that we had not realized quite 7 per cent. for the money we had put into the road. After several consultations with the Committee and with the Vermont & Canada people, it was agreed that we should receive \$50,000 per year for the road; that arrangement we assented to, and that agreement was made in 1872, and there the matter rested from that day to this. We offered it to the Trust, but the representatives of the Trust declined to take it at \$50,000 per year. The Central Vermont was then organized and it took the line, as a corporation, from us, and have paid us \$50,000 per year for it since. We bought out the townships in Canada. The town of Stanbridge contributed \$50,000, and the Treasurer of the Province of Quebec was authorized to issue debentures to the amount the town had subscribed, so that the town was never called upon to pay the interest on it, so that they got the benefit of that. They could not get any dividend on their stock until the debt was paid, and they said we might take their stock at 25 cents on the dollar. Mr. Clark and I accepted their offer and paid over the money. So that we have taken in that stock and paid the money for it at 25 cents on the dollar, and that is how the matter now stands.

Now, then, as far as your inquiry is concerned about the money, where it came from I cannot tell you. The \$50,000, however, has, I think, been charged to us on the books. I suppose Mr. Brainerd had taken the note of the Montreal & Vermont Road, which Mr. Clark, and I and myself personally endorsed to the Northern Road. I never saw the note, but it seems that he gave the note to the Trust and the Treasurer's note for that and we endorsed it and there it lays; the road has never paid a cent of it.

The Trust has never contributed one cent toward the Montreal & Vermont Road, except that we borrowed from the Trust some money for the construction of some cars, &c.; beyond that I don't think that the Trust has ever contributed one mill either directly or indirectly in any form whatever, except that we lent our own credit as Receivers to the Northern Road and borrowed money, which has since been charged to the Montreal & Vermont Junction Road, together with its interest; and that is the whole history of the transaction.

Q. Will you please tell us how much you originally subscribed to the stock of the Montreal & Vermont Junction? A. \$7,500.

Q. How much did Mr. Clark subscribe? A. \$7,500.

Q. Was that all the stock subscription that you ever paid to that road? A. Well, it was not the stock I held. That was on the original books as subscription. The stock has been issued to us under the notes

of the Company to the amount we now hold. The subscription was paid in cash.

Q. You paid \$7,500 in cash? A. Yes, sir.

Q. When did you pay that amount? A. We paid the assessments as they were laid.

Q. Was that before or after Linsley's failure? A. Before.

Q. Was your subscription payable in gold? A. Yes, sir.

Q. How much was subscribed by the Towns through which the line run? A. I think it was \$67,000. Stanbridge \$50,000, the town of St. Armand \$15,000 and the parish of St. Armand \$2,000.

Q. What was the original capital stock of that road? A. I cannot tell you; one million dollars I think.

Q. When was it fixed at a million dollars? A. In the charter I think, but I may be mistaken.

Q. Now, who besides you and Clark and the townships subscribed to the stock of that road? A. I cannot give you all. I think Mr. Moir subscribed \$2,500, and a Mr. Des Rivieres about \$4,000, Mr. Baker Stanbridge \$1,000, Mr. B—— \$1,000, Mr. R—— \$1,000. There was quite a large number of \$700, \$500, \$300 and \$100 subscribers. I have subscribed some.

Q. What was the total amount of subscriptions for the building that road besides the town subscriptions, and yours and Clark's? A. I don't know, I cannot tell you, I think it amounted to \$100,000. The agreement was that they should make up \$150,000 cash subscription dependent of us. They tried hard to do it but could not. They could not get it. They got part, and finally we agreed to cut down to \$100,000, and I think I wrote them that if they would raise \$100,000 would fulfill our pledge.

Q. Where are the books of this railroad? A. The books are at Stanbridge in Canada.

Q. Who is Treasurer of the road? A. Mr. Baker.

Q. Where is the book containing the construction account, is it on the Treasurer's books? A. I don't know where the accounts are, and I think the Treasurer's books do not show the full amount of construction.

Q. Where does the construction account of that road appear? I suppose that Mr. Clark has more information upon that subject than have—Mr. Joseph Clark, of Milton.

Q. And will he be likely to afford this Board of Master information as to what that road cost? A. I don't know what this Board has to do with it. It is a road independent of the Trust entirely, and if funds of the Trust have gone to that road, our books will show it.

Q. What is the first name of this Mr. Baker, who is Treasurer? A. I cannot recollect it at this moment. I think it is I. C.

Q. How much stock is he owner of? A. One thousand dollars.

Q. How much stock do you and Mr. Clark own in this road? I cannot tell.

Q. About how much? A. We have some three or four hundred thousand dollars.

Q. How much stock is there out of that road that you and Mr. Clark do not hold? A. I cannot say. There may be \$15,000 or \$20,000.

Q. Are the books of that concern subject to your and Mr. Clarke's control? A. No more than as we are Directors.

Q. Are you willing to produce the books of that concern? A. Well, I don't know what they have to do with this investigation. I don't know that there is any necessity for their production.

Q. What is your objection to produce those books? A. They are the books of another corporation, that this Trust has nothing to do with. I don't think that corporation would wish to have their matters made public.

Q. That corporation is substantially you and Joseph Clark, is it not? A. I am a Director in it.

Q. Do you decline to produce these books or cause them to be produced?

[Discussion here arose as to whether the books should be produced. The Masters ruled that they should not.]

Q. Is it true that the books in the possession of the Treasurer of that corporation would not show the source from which the money came that that Road was constructed with? A. Which corporation.

Q. The Canada corporation. Is it true that the books in the hands of Treasurer Baker would not show where the money came from? A. I cannot tell; my connection with the road has been to try and get it built, and to hasten its completion.

Q. Do you know whether the amounts of money raised by you and Clark went into the hands of the Treasurer? A. I don't think it did.

Q. Did the \$67,000 subscribed by the towns go into your hands and Mr. Clark's? A. No, sir.

Q. What became of that money? A. I cannot tell you.

Q. Will not the Treasurer's books in the hands of Mr. Baker show what became of the money subscribed by the towns? A. I cannot tell you; I don't think I have ever seen the ledger or journal in my life.

Q. Who disposed of the \$67,000 subscribed by the towns? A. I cannot tell you whether it was Mr. Clark or Mr. Baker; I don't know whether the money came into the hands of the Treasurer and was disposed of by him; I cannot tell, I don't know that I ever saw the books in my life.

Q. To whom did you pay the \$7,500 which you subscribed to the original stock of that road? A. I sent my money to the Treasurer and got his receipt.

Q. Did you send your individual check? A. Yes, sir.

Q. In the shape of gold or currency? A. In Canada currency; sometimes bills of Montreal banks, sometimes gold.

Q. Where had you the \$7,500 from? A. From my own individual funds.

Q. Did you draw it out of the money in the hands of the Treasurer of the Receivers, and then charge it over to yourself? A. No, sir.

Q. You did not take any money out of the Trust? A. I don't remember.

Q. Nor did Mr. Clark draw any? A. I don't know where he got his from; I borrowed some of mine at the Montpelier bank; I think \$25,000; borrowed it in gold and paid it back in gold.

Q. What bank did you borrow it from in Montpelier? A. The Montpelier bank.

Q. You borrowed \$25,000 of that bank, in gold. In what year did you borrow it? A. Well, I can't tell.

Q. About what year was it? A. I can't say. It might have been 1861-23 or '64; somewhere about there.

Q. Have you no means of telling exactly what year you borrowed that money in? A. I don't know.

Q. Did you give a note for it? A. Yes, sir.

Q. Who signed the note that you gave? A. I can't tell whether Mr. Brainerd or Mr. Clark, individually, or whether both; I think Mr. Clark.

Q. Did you give your individual notes? A. I am not positive whether we gave a joint or separate note.

Q. Did you sign this note as Trustees and Managers, or in your private capacity? A. I think we gave them together, or else I signed them and he endorsed them. That was in our private capacity, not Trustees.

Q. Do you recollect how large a note you gave; you said you had \$25,000 in gold? A. My impression is that it was that amount in gold. I don't know but that it was a receipt for \$25,000, to return that amount in gold.

Q. And have you any memorandum of the transaction? A. I don't think I have.

Q. Has any one in Vermont got a memorandum of that transaction? A. Not that I know of, sir.

Q. Would it appear upon the books of the treasurer? A. I do not know.

Q. Would it appear in Mr. Clark's books? A. I presume he had an account of the money paid out.

Q. What did you do with that \$25,000 in gold, and through whose hands did it go? A. I don't know whether I paid it to Mr. Linsley or Mr. Clark.

Q. Cannot you tell to whom you paid it, and when you paid it? A. I cannot give you the circumstances just now.

Q. Did you keep yourself, Gov. Smith, any account of the receipts and disbursements on account of that road? A. I do not remember keeping any account of the disbursements.

Q. Have you anywhere in your possession any receipts of expenditures? A. Mr. Clark kept all items of expenditure. Where let him have money he would enter the amount on a book.

Q. Did Mr. Clark ever furnish you with a statement of the expenses of the road? A. I think a statement was made of the cost of the road, which I think was made up at \$730,000, that was including premium we had to pay on gold; that amount was in currency, figures being higher than the Canada figures as everything had to be paid in gold.

Q. Did Mr. Clark ever furnish any statement of the cost of the road? A. I have on several occasions talked the matter over with Mr. Clark, and I think he has shown me statements of the premium on gold, and the aggregate cost of the road as we figured it up was I think about \$730,000, and I think I have seen a statement that was prepared here.

Q. Is that statement in your custody or under your control? A. I do not know. I think Mr. Drury took a memoranda of the figures of Mr. Clark and I think I have seen that statement in his hands in Boston, when he and Mr. Pinkerton and Mr. Cheney were discussing the question.

Q. Have you in your possession any statement showing the cost of that road? A. I don't know. I may have a copy of that statement.

Q. If you have a copy will you produce it? A. Yes, sir.

Q. How much money did you and Joseph Clark actually put into that road? A. I cannot tell you the exact amount. My impression is that we put in something over \$300,000, or thereabouts.

Q. Was that in gold or currency? A. I am not able to tell you that. I don't remember.

Q. Cannot you tell whether you put in \$300,000 in gold or currency? A. I think Mr. Clark knows just how much was expended.

Q. Mr. Clark knows the source from which the money was derived, does he not? A. I presume he does.

Q. What did you get to represent the \$300,000 put into the road? A. I hold notes and stock of the Company to a large amount.

Q. Stock issued to you? A. Yes, sir.

Q. Issued to you in consideration of this \$300,000 advanced? A. I hold it in consideration of the money that was advanced.

Q. How much do you hold the notes of the Montreal & Vermont Junction for? A. I cannot tell you.

Q. Who can tell? A. I can tell you, but not at this moment; I can tell by referring.

Q. Would it appear on the books of the Treasurer of that road? A. I think it does, but am not certain.

Q. What was the agreement or understanding between you and Mr. Clark as to the proportion of money which you were each to furnish for the building of that road? A. There was no particular agreement; we furnished the money jointly,—sometimes he would raise funds, sometimes I would.

Q. Have you and he settled between you, and ascertained the amounts which each has put in? A. We have never made such a settlement. Mr. Clark has several times requested that I would go down and settle the matter with him, but I have not had time to go down.

Q. How have you divided the gross earnings of that road? A. They have been divided equally.

Q. He has had a half and you a half? A. Yes, sir.

Q. And since you leased it for \$50,000 per annum, you have taken \$25,000 each? A. Yes, sir.

Q. How much bonded debt was placed upon that road? A. \$200,000.

Q. Was the first mortgage on that road negotiated at par? A. I cannot tell you. There is no mortgage in the form we use it. The char-

ter provides for the issuing of so many bonds which were to be hypothecated.

Q. Were \$200,000 of these bonds issued? A. Yes, sir.

Q. And were they all disposed of in Canada? A. Yes, sir.

Q. And disposed of for gold? A. Yes, sir.

Q. Are those bonds still outstanding? A. Yes, sir. They are the Bank at Montreal, pledged as collateral.

Q. Who owns them? A. I think Mr. Clark and myself own principal part, we took them when the contractor failed. I think took them at par.

Q. All of them? A. Yes, sir. We took them of Mr. Linsley.

Q. And then you completed the contract which he had made? Yes, sir. He had expended somewhere about \$200,000, if I remember right. I think the statement he made to us at the time of his failure was about \$225,000. We paid his debts and took them off his hands.

Q. Did you pay those debts at par? A. Yes, sir.

Q. And you bought up the bonds and debentures which the contractor had given, at 25 on the dollar for the stock issued to them? A. Yes, sir.

Q. Well, the result of it was that you got in, you and Mr. Clark about \$300,000 of your money, besides these bonds—do you mean that? A. I think that is about.

Q. And these bonds cost you \$200,000, in gold? A. Yes, sir.

Q. Now how many of these bonds had Mr. Linsley negotiated when you took the contract off his hands? A. I cannot tell.

Q. About how many. A. I could not say.

Q. Does anybody know? A. I presume the Treasurer would be able to tell you—that is Mr. Baker.

Q. The Treasurer's books are in Canada, are they not? A. Yes, sir.

Q. Would Mr. Clark be able to tell? A. I don't know but he can, sir. He could, perhaps, tell you all about it. I don't know where we own all the bonds.

Q. You are not certain whether Mr. Linsley negotiated them or not? A. I think he did, but I am not positive; I do not remember now the details of the case. I had nothing to do with the disbursement of any money in reference to the road.

Q. When was the road opened for travel? A. I am not certain.—I think 1864 or '65. The books will show the exact date.

Q. Was it January 1st, '65, that the road was completed? A. I presume it is that it was, but I am not sure whether it was '64 or '65.

Q. Governor, Mr. Soules has just drawn my attention to a circumstance that will help you fix the correct time. Do you remember the Albans Raid,—that it was in October, '64, and do you not remember that the first train that passed over the road carried the prisoners? Yes, sir; I think I remember that.

Q. Then that would fix the date of opening, January, '65, is it not? A. I presume that was the date.

Q. When that road was finished it had no rolling stock, had it? A. No, sir.

Q. You then made an arrangement with the Receivers to take the road and operate it, did you not? A. Well, I can hardly recollect the matter now. We expected it would be taken off our hands.

Q. Who do you mean by "our" hands? A. After the road was ready to run we had a consultation, and the question was, how this road was to be disposed of, and we had a consultation—that is, Mr. Brainerd, Mr. Clark and myself. I think I mentioned Mr. Taylor's name before, but that was a mistake.

Q. Mr. Merrill was your Superintendent, was he not? A. Yes, sir.

Q. And Mr. Brainerd was your father-in-law, and one of your associate Receivers? A. Yes, sir.

Q. Whatever bargain was made then was made between you and Joseph Clark, in your private capacity, and yourself, Mr. Clark and Mr. Brainerd, as Receivers? A. There was never any contract made.

Q. But, whatever arrangement was made was between those parties, was it not? A. My impression is that Mr. Peck was here. The question was, what we should do.

Q. Well, the answer to that question was that you would proceed and run the road as Receivers and Managers, paying yourselves individually 50 per cent. of the gross earnings of the road, was it not? A. O, no, sir. You may characterize it in any way you like. We were here in consultation as to how it should be run. It had to be opened, and the subject for discussion was, how to dispose of it. We saw the difficulties of our position, and wished to do what was best under the circumstances. We did not go into it for any speculation.

I think Mr. Peck was here in consultation as to what should be done with the road.

Q. Was Mr. Peck your counsel at that time? A. No, sir; our counsel then was Mr. Underwood and Mr. Tracey. Mr. Peck's relationship in that capacity ceased when he became President of the Vermont & Canada Road. He came up to consult with us on the subject of what to do with the road; we had got to operate it immediately—the public were clamoring for its opening for traffic, and trains had to be run. I think Mr. Merrill suggested that perhaps as fair a thing as could be done for the time being, was to run the road and divide the earnings; we adopted that suggestion and run the road in that way, but there was no contract or agreement of any sort—it is open to-day for the Masters to say what is equitable or right in the matter—no contract was made with anybody. I would like to get the matter settled. I have said on previous occasions that I was willing to leave the whole question from the beginning, in the hands of any three disinterested parties to say what is right and just between us.

Q. Will you tell me whether Mr. Clark and yourself have received 50 per cent. of the gross earnings since the completion of the road in 1865? A. We have, sir. It went along without any contract or agreement, and it is open for the Masters to say what is right.

Q. Now, Governor, don't you think that in order for the Masters to find out what is right, that they should be in possession of the books? A. No, sir. No more than to determine what is right and fair in this Trust. I do not think it is necessary for them to know what the cost of

the road was in order for the determining of the question as to what is right to be paid for the running of it.

Q. The road has been very profitable to yourself and Mr. Clark?

A. Well, if advancing money and getting 7 per cent. interest on it is profit, then we have made a profit. If it had not been for my Trust I would not have leased the road for \$50,000.

Q. It seems that at each end of the road of the Trust there is a short road which pays a profit, but that the intermediate road does not pay a profit? A. It did pay a profit, to its security holders until we took on the leased lines, which was done at a time when everything was inflated, and the business of the country was in a brisk state, then followed a depression. If any money has at any time been abstracted from the Trust, our cash books will show. Every transaction of this road will be shown in the books, and if any amount has been taken from the Trust it will appear there.

Court here adjourned until Friday morning, 23d inst., at 9 o'clock

FRIDAY MORNING, 23d JULY.

[Court assembled at 9 o'clock, a. m. Business engagements in connection with the road demanded Gov. Smith's presence elsewhere, and his examination was unavoidably postponed. Mr. Davenport suggested an examination of W. C. Smith. Mr. Underwood remarked that it would be preferable to continue with the same witness. After several suggestions on either side it was decided to adjourn until Tuesday, 27th inst., 9 o'clock. Meanwhile Mr. Davenport and his conferees were to have the use of any of the books for examination thereof in the building.]

TUESDAY, JULY 27—MORNING SESSION.

Examination of Gov. Smith, by Mr. DAVENPORT—Continued:

Q. Gov. Smith, have you been able to find any books or papers that will enable you to tell what the M. & Vt. Junc. Road cost? A. Not as yet. I did not understand that I was to do so.

Q. You said in your testimony when upon the stand before that you did not know but that you had a copy of an account furnished by Mr. Clark, from his books, and that you would look and see if you could find it. A. Well, I supposed afterwards it was decided that that was not material to the case, and I went off on Saturday for a little recreation and only got back last night. I had the impression that it was not material to this examination to know what that road cost. That was what I understood to be the decision of the Masters.

Q. And you understood the Masters to say that the cost of the Montreal & Vermont Junction Road was not involved in this controversy? A. Yes, sir.

Q. Then you have taken no measures to obtain from Mr. Clark, or from an examination of your own books and papers anything that will show the cost of the road? A. No, sir, I have not, as I just stated. I went away on Saturday morning, and only returned here last night.

Q. What engineer had charge of the construction of the Montreal & Vermont Junction Road, that is, after Mr. Linsley failed and you and Clark took upon yourselves to complete the road? A. I don't know that I can tell you, at this moment. It might have been Mr. Hale. My impression is that it was him, although I am not positive.

Q. Was it Mr. William Hale? A. I think that was his name—that or Henry.

Q. You say it is your impression that Mr. Hale was your engineer but are you not certain? A. That is my impression.

Q. Where does this Mr. Hale, who you say "might" have been engineer, reside? A. At Essex. But I am not sure that it was Mr. Hale.

Q. Don't you know that D. C. Linsley was the Supervising Engineer until that road—the M. & Vt. Junc.—was completed? A. Mr. Linsley was in our employ as an engineer, but I think Mr. Hale had charge of that road. Mr. Linsley was busy with other matters, and my impression is that Mr. Hale had charge of it, as assistant, under Mr. Linsley.

Q. Was Hale in your employ at the time this road was being built? A. Yes, sir, I think he was. I don't know positively.

Q. You say he was assistant engineer. Assistant under whom? A. Under Mr. Linsley.

Q. Then Mr. Linsley really had charge, as Chief Engineer, in the construction of that road? A. He made the original survey and located it. In the bidding for the road he made the last offer, and the contract was given to him for \$440,000. He was to return the road completed for that sum. Afterwards, when the road came back into the hands of the Company, I do not remember whether Linsley devoted any time to it or not. He was Mr. Hale's superior.

Q. During the time that Mr. Linsley constructed that road as contractor, was he not in your employ as Chief Engineer—that is, in employ of the Trust? A. That I cannot answer without referring to some papers or refreshing my mind.

Q. Will you refer to some papers and refresh your mind as to whether Mr. Linsley was in your employ during the period that he was contractor of the M. & Vt. Junction. Are there any papers here that will tell you? A. I cannot do it at this moment. I have no papers here that I can get at; whatever papers there are, are in the safe; and I am not sure that such papers are there.

Q. What engineer supervised the construction of the Swanton Branch? A. Mr. Linsley, I believe.

Q. Who was his assistant engineer? A. I think Mr. Hale was, and I think there was also a Mr. Townsend with him at that time, but I am not sure; I paid very little attention to the details at the time.

Q. When did the construction of the Swanton Branch commence? A. I shall have to answer that from recollection. My impression is that it was in '63.

Q. Which was commenced first, the Swanton Branch or the M. & Vt. Junction? A. I am not sure: I think the M. & Vt. Junction was commenced first.

Q. How much first? A. I should think some months.

Q. Were they not both commenced during the year 1863? Well, I have a vague impression that the M. & Vt. Junction was commenced in 1862, but I am not sure. My recollection is that the M. & Vt. Junction was commenced some months before the other.

Q. When was the Swanton Branch completed and opened for travel? A. About contemporaneously with the other road, but I do not remember exactly.

Q. Was not the laying of track going on simultaneously upon both roads? A. I should think they were.

Q. And under charge of the same engineers? A. I do not remember, Mr. Davenport, I should think very likely.

Q. You had no other engineers except Mr. Linsley, and Mr. Hale and Mr. Townsend as assistants, had you? A. I think they were but I don't remember of whom the party was made up.

Q. What is the length of the Swanton Branch? A. A trifle over 10 miles.

Q. What was its cost? A. That I cannot tell, but the books will show.

Q. About what? A. Something over \$350,000.

Q. Does that include land damages? A. I think it does, sir. I am not certain—I may be mistaken.

Q. Will the cost of the Swanton Branch all appear on the books?
A. I think it will.

Q. Have you ever seen the account? A. I have never seen it since we settled with the Vt. & Canada. The Clerk had it then.

Q. Then your best recollection is that the Swanton Branch cost something over \$350,000? A. That is my impression, but it is so long ago that I cannot remember exactly.

Q. But a matter of that importance you would remember about, would you not? A. I have given you the cost, sir, to the best of my recollection.

Q. But whether more or less than the amount stated, you do not know? A. No, sir; I could not swear to it from memory, but I think it will all appear on the books. I believe it is shown in the Horticultural Report.

Q. Have you got that report? A. No, sir.

Q. Then here is one? A. The figures as shown here were made up entirely by Mr. Wilbur. I did not see them until they were presented by him. The cost as given here is \$340,308 98.

Q. Now does that include land damages? A. My impression is that it does. I think it includes everything.

Q. Iron, ties, chairs, spikes and everything? A. I think so, my impression is that it includes everything.

Q. Did you have any salary as supervising agent of the construction of that Swanton Branch? A. I cannot say whether I had any compensation or not. If I did the books will show. My impression is that I did not.

Q. Were not you and Joseph Clark appointed by the Vermont Central Road as managers of the construction branch? A. Yes, sir; and by the Vermont & Canada also.

Q. Now were you not paid a salary for your services? A. I think not, sir. I do not remember.

Q. If there is any salary charged in the cost of construction, it is erroneously charged, then? A. No, sir, it could not be erroneously charged.

Q. Then you gave no attention to the road personally, did you? A. Yes, sir; I gave a great deal of attention to it, that is to the general construction of the road.

Q. If you received a salary and Joseph Clark had a salary as construction agents, is that also included in the \$340,000? A. It should be, sir. By the terms of the lease of that road, the Vermont Central were required to nominate and the Vermont & Canada to appoint the agents for the construction of the road. The Vermont Central nominated Mr. Clark and myself as constructing agents, and the Vermont & Canada appointed us by vote of their board as constructing agents. We worked independent of the Trust; whether we had any compensation or charged any I do not know, but if there was any such compensation it will appear in the account, and you will find it precisely the amount charged, if any.

Q. Governor, what size or weight of iron was laid on the Swanton Branch—what weight to the yard? A. I think it was 60 lbs., sir, but it may not all have been so.

Q. About what number of tons is requisite, of 60 lbs. iron to lay a mile of road? A. I think it falls a trifle short of 100 tons.

Q. Where was the iron laid upon the Swanton Branch procured? A. Some of the iron used was taken up from the old Rutland road into Burlington. We purchased the iron for the new branch into Burlington and put the old iron into the Swanton branch.

Q. How many miles was there of that? A. I don't remember precisely, somewhere in the vicinity of two miles.

Q. Well, that iron was all put upon the Swanton branch? A. I think so, sir.

Q. Well, that would leave eight miles of road unprovided for? Where was the iron for that obtained from? A. That I cannot tell you. I think it was purchased, but the bill will show where it came from.

Q. Don't you remember what concerns you bought the iron of? A. I don't remember precisely; had some English iron and American iron.

Q. Do you remember whether any re-rolled iron was laid on the Swanton branch? A. I cannot say whether there was or not—possibly there was.

Q. Is there anything in the office that will enable us to find out whether that road was a part laid with re-rolled iron? A. I cannot tell you. I don't know whether the bills were kept distinct or not. We were purchasing iron all along for our own supplies and probably Mr. Miller purchased iron in the name of the Trustees for what was wanted in which case it would ostensibly come from the Trust and be charged over. I don't know whether there was any special or particular purchase in the name of that road. I don't think there was. My impression is that we took some of the iron that came in for the yearly supplies of the road, and I presume this iron was included, and all purchased under one purchase in the names of the Trustees and Managers, and what was used was then charged over.

Q. Will you give me the names of the iron dealers with whom you were trading at that time. A. I could not; I haven't any idea. We have purchased of Naylor & Co. oftentimes, Washburn, Bay State Iron works and the Rensselaer Iron works at Troy.

Q. Were you buying of any other parties than Washburn and Bay State Iron Co.? A. I think they simply re-rolled iron and that we never purchased any of them.

Q. Did you ever buy any iron of the Bay State Iron Co.? A. I don't know whether we have or not. The Washburn iron we have re-rolled, and I think we have re-rolled the Bay State Iron.

Q. Where did the ties come from that were laid upon the Swanton branch? A. I presume they came out of the general supplies we had on hand, and were charged over.

Q. From what source did the general supply for this section of the country come? A. We bought a great many from Pike River. We buy a great many ties on the line of the S., S. & C. Road.

Q. You did not buy the ties at that time on that road, did you? A. Well, I don't know; we might have done so. We generally laid in from fifty to a hundred thousand ties per year, sometimes 150,000, and I think possibly the ties might have come in that way, and we have used them and charged them over to the Vermont & Canada.

Q. Where did the iron come from that was laid on the Montreal & Vermont Junction Road? A. That was English iron; it was bought in England to save duties.

Q. Of whom was it purchased? A. I don't remember the name, it was purchased of a house in New York and was sent round by way of Quebec. I cannot tell the name of the house.

Q. Is there anything in your possession that will enable you to give me the name of the house? A. Not in my possession. I think the company have the vouchers.

Q. Are the vouchers for that iron here, and if so will you produce them? A. I don't know that they are; I haven't them.

Q. Who purchased that iron? A. That I cannot tell, whether Mr. Clark or I purchased it. It is such a long time—ten or twelve years—that I don't remember the details. I know it was English iron, from English agencies, some of it come through from New York in bond.

Q. Do you recollect what sized iron you put on that road? A. I should think it was 56 lbs. rail.

Q. I ask you again, Governor, if you will produce to this Board of Masters the vouchers showing the amount of iron purchased for the M. & Vt. Junc. Road, and of whom it was purchased? A. I don't know that I can; I have not got them and I do not know who has them. I have never had a voucher in my possession.

Q. Do you know the cost of that iron? A. I could not tell you now; I have not the slightest idea. Iron ran from \$45 to \$80 per ton, and I don't remember what the price was then.

Q. Did you use the \$25,000 gold which you got from the Montreal bank to pay for that iron? A. I should think not, sir.

Q. Where did the money come from with which you paid for the iron? A. I cannot tell you; I haven't the slightest recollection as to where it came from.

Q. What is the exact length of that road? A. I cannot give you the fractions; my impression is that the road is about 24 miles—from the Line to St. Johns. It is between 23 and 24 miles, but I can't tell exactly.

Q. Cannot you tell how much of the S., S. & C. Road is run over to get from Highgate to St. Johns? A. Something over a mile, I should think—less than two miles. I don't know whether it was ever measured. I haven't measured it.

Q. You have not in your possession any books or papers connected with the construction of this Montreal & Vt. Junc. Road? A. I do not know but there may be some loose papers connected with it, but I cannot say. As I told you, Mr. Clark had the entire supervision of that work. I had several consultations with him and went over the line with him occasionally, but the details of the construction of the road were not in my hands.

Q. Did Mr. Clark have charge of the finances of that concern? Almost entirely.

Q. He obtained the money, did he, for the road? A. We obtained it between us; sometimes he would come to me for money and gave him what I could.

By Judge Poland: Have we not been over all this ground last week, Mr. Davenport?

Mr. Davenport: Well, yes, but we haven't been able to find what we want to, yet.

Judge Poland: I think you have found out all that Gov. Smith knows about it.

Mr. Davenport: Possibly I have, but the decision of the Master that they had no power to help us get the books of the M. & Vt. Junc. Road makes it necessary that I should put these questions in the view of the case, because, as I said to the Masters when I made application for the books, I believe that that Montreal & Vt. Junc. Road constructed out of the funds of this Trust. If there is no way that can get access to the books, if the Masters are not willing to require their production, or to order their production, there is no other course for us to pursue but to get this information—if we can—by interrogating the Governor, because he is the only man that can tell us, for according to his statement Mr. Clark is in such a condition that he cannot testify.

Judge Poland: But when a question is put to the Governor he replies that he does not know, that should be satisfactory.

Gov. Smith: I have told you, Mr. Davenport, that every dollar taken from this road in any form appears on the books of this Company every dollar, and if you would examine the books all these facts will be revealed precisely and fully. You ask me to state from recollection transactions covering millions of dollars and thousands of vouchers. I cannot remember them, but if you take up the books every single dollar will appear there and show just where it went.

Mr. Davenport: With reference to that suggestion, the Governor takes it upon himself to answer any objections, it is not likely if money was taken out of the Trust that there will be any vouchers left to show.

Mr. Fifield: The books are so kept that there cannot a dollar be taken out without a voucher to show for it.

Mr. Davenport: If my line of examination is objectionable I assume the Masters will stop it.

Judge Poland: I am not objecting to any question, I am objecting to Mr. Davenport putting the same question ten times, with perhaps a little variation of form. When the Governor has already answered he cannot tell, it is useless to repeat the question.

Mr. Davenport: With reference to "cannot tell," if your Honor please, it must be apparent to your Honor as to counsel on both sides that it is within the power of Gov. Smith, if he sees fit to exercise his power, to bring before your Honor at an hour's notice every book and paper connected with the construction of that road. He and Mr. Clark own almost every share in that road, and the Governor can ask the Treasurer—who is on the other side of the Canada Line because

wants him on that side of the Line—to produce those books, if he chooses to do so. Gov. Smith cannot tell whether the items which went to make the cost of construction of that road are to be found in the office at Canada or whether they are in Mr. Clark's possession. He tells you that Mr. Clark is so disabled that he cannot testify. The books are his books as much as Mr. Clark's, the vouchers are his vouchers as much as they are Mr. Clark's. It is in his power to go to Milton if he thinks fit and bring before you every book and paper connected with that road. Now, your honors, when I ask him where the iron was obtained from with which to build that road, it is of course a material question for this examination. If we are right in our assumption that the money to build that road came out of the Trust, these books when produced will fortify our position; if we are wrong in our assumption, then the books will convince us and you of our error. Well, now, since Gov. Smith is unwilling to produce the books and papers, is there any other course I can pursue to get at the matter as best I can by asking him—possibly varying the question as I do—until I can get at the matter. Take this matter of the iron; he professes to know nothing about it, he cannot tell the person of whom it was bought. Suppose he wanted to find out whether the iron that went to build that road was actually taken and paid for out of the Trust; if we can find out who this iron was purchased of and find out whether the checks of the Trustees and Managers, or notes of the Trustees and Managers were given to pay for it, that would help us somewhat. We could find out if our friends on the other side will produce the books and let us have access to that concern, and I insist that we have a legal right to do so unless this Board is prepared to rule differently from what has been ruled in every case where the relation of a trustee was the subject of an examination in court. The very fact that a man occupies the position of trustee or receiver makes his private accounts a proper subject of investigation in connection with that position.

Judge Poland: I am not aware that there is any question pending before the Masters.

Mr. Dillingham: I don't know that there is any question pending.

Mr. Davenport: Then I will again repeat my question:—

Q. Will you please tell me, Governor Smith, of whom the iron was purchased which was laid upon the M. & Vt. Junc.? A. I cannot tell you, Mr. Davenport. I would if I could.

Q. Is it not in your power to tell? A. It is not in my power to tell you here.

Q. Can you find out? A. I presume I can, but I cannot tell you here or now.

Q. Are the books and papers and vouchers that will show the source from which the iron was obtained in the possession of either you or Joseph Clark? A. I presume Mr. Clark has the evidence. I haven't it here and I don't know what evidence Mr. Clark has in his possession.

Q. Have you not the same right to those books and papers that Mr. Clark has? A. I don't know. One difficulty that exists in my case is, that I have never had a settlement with Mr. Clark. He has constantly

requested me to settle these matters with him, but I have not been able to find time to do so. I don't know what books he has in his possession.

Q. That is not the question. I ask you if you have not the same right to all the books and papers connected with the construction of the M. & Vt. Junc. Road that Joseph Clark has? A. I suppose I have.

Q. Will you produce such books and papers as are in Mr. Clark's possession? A. I don't know what he has got. I will go down and see.

Q. Will you produce what books and papers he has in his possession connected with the road? A. I will go down and see him and ascertain what can be done.

Q. You will endeavor to produce them, will you? A. I will do what I can to get all the papers in reference to that road before the Masters, in due time. I cannot reply to your questions concerning things that did not come within my own knowledge. I cannot swear to transactions I don't remember, that you wish me to swear to. I have no desire to conceal anything, and I will endeavor in due time to get all the light and information that is within my reach.

Q. What do you mean by due time? A. It will take me some little time, Mr. Clark may be in no condition to engage in conversation.

Q. Does it take any confining of the mind or lengthy conversation to get possession of the papers that Mr. Clark?

Judge Poland: I don't know what you can have further than the statement of the witness, that he would make an honest, good report in due time. I should think that ought to be sufficient. You can give notice, and put it in writing when you want it produced.

Q. I understood you to testify last week that you borrowed money to build that road, in part from various banks. You named the Montpelier bank as one, from which you borrowed \$25,000; you also named the St. Albans bank; now will you state from what bank in St. Albans you borrowed money to build that road? A. I cannot do that any further than one item we borrowed from the Vermont National Bank, or rather the St. Albans Bank, I think it was at that time; it was before the National Banks were in existence.

Q. What Bank is that now? A. Mr. Barlow's Bank.

Q. How much did you borrow of that bank? A. I cannot tell you the amount.

Q. About how much? A. I have no idea; I cannot tell you how much I borrowed it.

Q. Was it upon your own note and Joseph Clark's individually as Receivers? A. My impression is that it was on the credit of a note of the M. & Vt. Junc., endorsed, I should think, by Mr. Clark, but that is purely recollection; I cannot swear positively to it.

Q. Did you borrow from any other bank in St. Albans, except that? A. I don't know whether we did or not.

Q. And you have no idea as to the amount you borrowed? A. No, sir.

Q. What Banks other than Montpelier and St. Albans Banks do you testify that you borrowed money of to build the M. & Vt. Junc. Road? A. I cannot tell.

Judge Poland :—Have we not gone over this subject already at considerable length ?

Mr. Davenport :—The only bank I asked the witness about before was the Montpelier bank.

Judge Poland :—He stated several banks in answer to your inquiry.

Mr. Underwood :—The most orderly proceeding would be to exhaust a subject when you are about it.

Judge Poland :—We don't desire to be too formal or technical, if there was any question Mr. Davenport omitted to ask, but he is going over the same questions *seriatim* ; over the same road we have travelled before.

Mr. Davenport :—Do you understand, Judge Poland, that I have interrogated as to the banks.

Judge Poland :—Well, when the witness has answered your question once, that should be sufficient.

Q What bank or banks at Burlington did you borrow money of which you will testify was used for the construction of this road ? A. In stating that we borrowed money of the bank I do not mean that I made the arrangements personally. I think Mr. Clark had a good deal of money out of the Merchant's Bank at Burlington.

Q. Was there any money obtained from the Merchant's Bank at Burlington on any paper of yours that was used in the construction of that road ? A. My impression would be—it is simply recollection—that I did endorse paper with Mr. Clark, but I won't swear that I did.

Q. Was that paper made by the Montreal & Vermont Junction ? A. I cannot tell you. I know we had a good deal of their paper ; it might have been made, some in Mr. Clark's individual paper and my individual paper. I have no distinct recollection of any, other than the note I told you of the other day, which was borrowed of the Northern New Hampshire R. R., of which I did not know till afterwards. I am not aware that any other note of the Trustees and Managers was given for any money that went into that road.

Q. Were the notes of the Trustees and Managers being given at that time to those banks—that is the Montpelier Bank, St. Albans Bank and the Merchant's Bank at Burlington—on account of the Trust ? A. I should think they were. Mr. Brainerd was the sole financial agent and gave all the notes. I never gave one in my life. I simply endorsed the notes Mr. Brainerd brought to me.

Q. Then the money that went to build this road was borrowed, according to your belief, upon notes of the Montreal & Vermont Junction Road, endorsed by you and Clark ? A. And some of them, perhaps, by Mr. Clark himself. I do not know that this is so, although it is possible.

Q. Was there any money borrowed from any other bank in Burlington than the Merchant's Bank ? A. I cannot tell you, Mr. Davenport.

Q. Then you have no knowledge of money coming from any other source ? A. No, sir.

Q. I think you mentioned a bank in Waterbury, if am not mistaken ? A. There was a good deal of money from there, but I cannot tell whether they took the notes, or whether we were dealing with that

bank. My recollection upon that point is very vague and indistinct, but I think I went there and saw Mr. Hutchinson and made an arrangement I should think for \$10,000, still, I may be mistaken; that amount may have been for some other purpose than I have in my mind. I borrowed some of the money in Boston.

Q. I think you named some banks at Rutland, Troy and Middlebury, last week? A. I did not name Rutland, sir.

Q. Did you name Troy and Middlebury? A. I do not remember mentioning Troy, but if I recollect right Mr. Brainerd went down to Troy and got money for Mr. Clark and myself.

Q. What bank was that at? A. The old Troy Bank, I think. My impression is that Mr. Brainerd went to Troy for some money, Mr. Clark and myself. Mr. Brainerd had no interest in the road, whatever, except to see that the building of it was carried through. I do think I mentioned Middlebury.

Q. Now, is there no other bank in this State that you think borrowed money from? A. I do not recollect any other, sir.

Q. Governor Smith, did Asa B. Foster have any interest in the road? A. He was stockholder.

Q. Did he have any other interest except as stockholder? Nothing, except as Director and one of the Board of Managers.

Q. Had not Mr. Foster any interest in the contract for building that road with Mr. Linsley? A. No, sir.

Q. Were not the first four contractors D. C. Linsley, Foster, Joseph Clark and yourself? A. No, sir.

Q. Had Foster any interest in the contract for building that road to your knowledge? A. No further than this—I don't know how it would constitute an interest: We had undertaken to carry that road through, if they would surrender the charter to us. We stood before Mr. Linsley, to the extent that we gave a guarantee that we would negotiate for him if he would go on with the building of the road. We would see that there was negotiated for him \$100,000 of the stock of the Company, in order to furnish him with money, as he had not sufficient means to go on with the work.

Q. So that he first took the contract? A. Yes, sir. He had Clark's and my written assurance that we would furnish him with the money.

Q. Did he have Foster's assurance, also? A. My impression is he did not. We had advertised for proposals to build that road. Linsley was then engineer of the road, and he said to the Directors at our Board meeting, that he was satisfied that the road could be built for less money than the offers that had been made. He could not take the contract, in consequence of his position as engineer of this road, but he went to work, and at the request of the Board made his estimate and submitted it, the cost of the construction of the road, to the Board for them to decide whether it should be built at his estimates. The Board, thereupon, not being satisfied with the bid, gave to Mr. Linsley the contract. He (Mr. Linsley) then resigned his position as engineer and I think that Mr. Hale was then appointed by the M. & Vt. Junction engineer of the road. That is my impression; that is, the best of

recollection. Mr. Linsley having resigned his position, we gave him the contract to build the road for \$440,000—so much in cash, so much in stock and so much in bonds.

Q. Will you please tell us how much was in cash, how much in stock and how much in bonds? A. His full contract was as I have said for \$440,000, and to the best of my recollection he was to have \$60,000 or thereabouts in cash; \$200,000 in bonds, and certain quantity of notes of the company. But I may be mistaken as to the cash and notes; I am stating entirely from memory.

Q. How much was he to take in stock? A. Somethig over \$100,000; I think there was \$100,000 to be in notes and cash; that with the \$200,000 in bonds would make \$300,000, and I think the balance—\$140,000—in stock. I will produce the contract if I can find it.

Q. Do you think you can find and prodnce that contract? A. I will do my best to find it, but I do not know where it is for I have never paid any attention to the matter—much to my regret and inconvenience. At the time he took this contract, which the directors decided to let him have on his terms, Mr. Linsley came to Mr. Brainerd, Mr. Clark and myself and said, "Now, I am willing to undertake this work if you can stand behind me to assist in the sale of that stock; it has no known market anywhere, and I should probably find some difficulty in disposing of it." We promised Mr. Linsley we would stand behind him as I have said. We had got the assurance of the other roads that they would help to construct this road. The other roads were interested in the building of this road for its connection would—

Q. Is it necessary to go through that history again, or will you tell us if Mr. Foster had any interest in that road? A. I think it is necessary to make my answer intelligent to the Masters and to you. You ask me a question which I cannot answer you "no," and which I cannot without an explanation, say "yes" to and do justice to myself and others. I will therefore continue my explanation:—We thereupon stood behind Mr. Linsley, that is Mr. Clark and myself, Mr. Brainerd saying he was too far advanced in life to take these risks. We told Mr. Linsley we would do as he asked us to the extent of a certain amount, which we would see was provided for so much of the stock. On these terms Mr. Linsley entered upon the contract. Now then, so far as the books are concerned of the M. & Vt. Junc., the account of Mr. Linsley would not appear upon those books. The road was built for the round sum of \$440,000, and it would appear upon the books as that amount, without any details or particulars. Mr. Linsley undertook to return the road for the round sum of \$440,000. Now then the books of the M. & Vt. Junc. Co. would show nothing in regard to the construction of the road, except so far as the securities which they were to give Mr. Linsley under his contract, still I do not know exactly what they show; I don't know that I ever saw them but once, and that was at the early commencement of the work. I have paid no attention to them—I had no interest to examine the books in connection with the construction of the road, because the work was laid as a round sum, and nothing would be shown except the amount in full that the road was to be built for when the work passed out of the contractor's hands—and perhaps here it is nec-

essary that I should make a correction of my former testimony as reported in the "Free Press" the other day, when I stated that the Contractors, Linsley & Co. failed, I did not mean to carry the impression that they failed in the sense of going into Bankruptcy, or becoming unable to pay their debts—I mean that they failed to fulfill their engagement to build the road,—the difference in gold becoming so great from an even currency, between Canada and the United States, (it went up 1 over 240 or 250 per cent.) that Mr. Linsley said he could not go on with the contract. When I used the word "failed," my mind was upon another point, and I do not mean to imply that he failed as a Bankrupt or that his principle was touched or his credit impaired; what I mean you to understand was that this wide difference in the currency was such that he could not go on and build the road for \$440,000. Thereupon the Company took it off his hands, and then came what I have already related, and I will not therefore go over again the relations existing between the Vermont & Canada Road and Mr. Clark and myself in reference to the completion of the road. Now, then, with regard to the extent of the guarantee which we gave Mr. Linsley to supply that money from his stock,—we were interested in his contract to see that it was carried out,—the Rutland Road having withdrawn their offer, this money that was borrowed of the Northern N. H. Road went in to discharge the arrangement or agreement we made with Mr. Linsley to provide for his stock,—and that was the way that the money from the Northern N. H. Road went. So that to that extent and no further have Mr. Clark and I had any interest in that contract. We became largely interested in the Company, and assumed so much of the obligation towards Mr. Linsley to help him through with the work. Mr. Linsley remained disconnected with the Road ever since he took the contract for the construction of that road—the Montreal & Vermont Junction. I think Mr. Hale was appointed engineer when Mr. Linsley resigned. I should think Mr. Linsley had expended over \$300,000 on that road when he took it back from him.

Q. You have not yet answered my question whether Asa B. Foster was interested in that contract? A. He had no interest except as managing director to help us carry it through, and he was also a stockholder.

Q. Did he stand behind Mr. Linsley as you and Mr. Clark did? A. My impression is that he did not. I think Mr. Clark and I were the only parties; it is barely possible that Mr. Foster did. Speaking of Mr. Foster brings to my mind about the iron. I think Mr. Foster furnished some iron that he had left from the S., S. & C. Road, and my impression is that that iron came from the Ebwy Vale Iron Works.

Q. (By Judge Poland.) Is that a Canadian Institution? A. No, sir; English.

Q. When was it that Mr. Linsley failed, or abandoned his contract? A. He did not fail. The arrangement we made to relieve Mr. Linsley of the road was I should think in 1863 or the early part of 1864. That is my best recollection.

Q. Did A. B. Foster have any interest in the contract after you and Clark took it? A. No, sir. Mr. Foster continued as one of the Managing Directors, and I think he furnished some materials after that.

Q. Did he have any share of the profits? A. Not to my knowledge. There was no profit that I know of.

Q. Did Mr. Linsley pay all his liabilities? A. All except what we agreed to assume. I suppose he paid all his obligations; I never knew that he did not.

Q. Now, you say that Mr. Linsley was forced to give up that job in consequence of the high price of gold, the contract being in gold? A. Yes, sir.

Q. You being under obligations to furnish him \$440,000 in gold? A. The Company were, I was not.

Q. Well, you and Clark stood behind him and agreed that the Company should do so? A. No, sir; we had nothing to do with it any further than standing behind him with regard to the stock, as I have explained.

Q. Now, as this was wholly a Canada contract and a Canada corporation, what had the state of the currency in America to do with that contract and its performance in Canada? A. The disturbance affected the Canadian currency the same as it did the currency here. The Canadians could sell their gold in New York. We had to pay everything connected with the contract in gold, for which we had to pay a high premium, and gold was as high and scarce in Canada as it was here.

Q. Was not the price of material substantially the same after our currency began to depreciate that it was before? A. I presume it was.

Q. Well, labor there in gold was no higher after our currency began to depreciate than it was before?

Judge Poland: It would cost no more, if they only had the gold. They had to get the gold and pay the premium for it.

A. If you will allow me, Mr. Davenport, I will explain the matter.

Judge Poland: It seems to me that my friend must have a great opinion of the capacity of the Masters, to suppose this is a puzzle that needs explanation.

Q. I understood you to say, Governor Smith, that there was \$200,000 of bonded debt upon that road? A. Will you allow me to explain about the currency?

Q. Well, perhaps we shall get along quicker if you will answer my question. There was \$200,000 (gold) outstanding, in bonds? A. Yes, sir.

Q. The stock was payable in gold, was it not? A. Yes, sir.

Q. And the subscriptions of the municipalities were all payable in gold, were they not? A. Yes, sir, they were, but the only currency then in use was that of the Bank of Montreal, which bank withdrew its whole circulation, for the purpose of keeping her relation to the currency the same as gold was here. The whole business in Canada was done in American currency, and gold was hardly to be obtained.

Q. I cannot understand why you could not take that \$200,000 and buy greenbacks with it in New York? A. Those bonds had no value in New York.

Q. Were they not bonds that were secured upon the Canada Road and payable in gold? A. Yes, but they would not probably have brought ten cents on the dollar in New York.

Q. But they could be negotiated in Canada at par. A. No, sir.

Q. I understood you to say, last week, that they were negotiated at par? A. If I said so, I did not mean so.

Q. Were not the bonds given by the Government on the subscriptions by the municipalities negotiated at par? A. No, sir; they were negotiated at between 90 and 95.

Q. Were they five or six per cent. bonds? A. I think they were six per cent.

Q. What were those gold bonds negotiated at? A. I do not remember.

Q. Have you got them back into your possession? A. Yes.

Q. What did they cost you to get them back? A. We got them back at par, but I do not remember whether we paid for them in currency or gold. I think it was Canada currency.

Examination continued by Mr. WILLARD.

Q. I will ask you one question omitted by Mr. Davenport: Was that \$56,000 received from the Northern Road paid to Mr. Foster? No, sir, it was not.

Q. Do you know to whom it was paid? A. I cannot say; I do not remember.

Q. (By Judge Poland.) That was received while Mr. Linsley was carrying on the work, was it not? A. Yes, sir, I think it was.

Q. Did Mr. Linsley have that \$56,000? A. It was only \$50,000. I think the \$6,000 was in part interest on the money and in part account which this road had against that for use of machinery, cars, &c.

Q. There was only \$50,000. Was that advanced in our currency? A. Yes, sir.

Q. At what time was it advanced? A. I do not know.

Q. (By Mr. Safford.) The date upon this voucher is November 20th, 1865? A. I think the money was borrowed of the Northern Road, before that time.

[Mr. Safford offers in evidence the voucher in question, number 1608, and dated Nov. 20th, 1865, for amount of \$56,000, marked "Exhibit 3," of this date.]

Q. Now, so far as you and Mr. Clark were owners of the road at that time, it did not cost you the same as it cost the original contractors. In other words, you had bought in the stock that was held by municipalities for their subscriptions, and for which they paid in gold 25c on the dollar? A. If you gathered that from anything I have said, you have obtained an erroneous impression. We bought the stock of the municipalities within the last three or five years—Mr. Clark and myself. The municipalities were anxious to sell, and we purchased. We had taken the stock of Mr. Linsley, and to that extent Mr. Clark and myself were the owners of stock. The municipalities held their stock then.

Q. You and Mr. Clark originally subscribed \$15,000? A. Yes.

Q. And the municipalities subscribed \$67,000? A. Yes, sir. The municipalities agreed originally to make up \$150,000, but they did not come up to \$100,000. Mr. Moore, the Pres't of the road, and Mr. De Riviere came forward and gave their bond to the M. & Vt. Junc. to make up the deficiency to \$100,000. Part of it has been made up and part is still outstanding. That is still a valid claim and has not been released by a discharge. Mr. De Riviere is dead.

Q. I understand that you collected the bonds which were issued as a mortgage and hypothecated. A. Yes, sir.

Q. These are gold bonds and have been pledged in the Bank at Montreal? A. Yes, sir; they are pledged to secure the purchase of the bonds of the S., S. & C. Road; or, rather, to secure to Mr. Foster the surrender of the securities which he had for that road.

Q. (By Mr. Safford.) \$168,000 is the amount they were pledged for, is it not? A. Well, something about that—I don't remember the exact amount.

Q. Whose liability is it that these bonds are pledged upon? A. That is now the liability of the Trust. The Trust owns that road now.

Q. I understand that you and Mr. Clark claim to own the bonds. A. Yes, sir, we pledged them.

Q. (By Mr. Walker.) These bonds belong to the M. & Vt. Junc., do they not? A. No, sir; they now belong to Mr. Clark and myself, individually. When the contract was made for the S., S. & C. Road, these bonds were pledged. They wanted security. Mr. Clark, Mr. Brainerd and I did not want to endorse that contract or sign it individually, and we gave them these bonds as a collateral security.

Q. How much did you and Mr. Clark pay for those bonds? A. I do not know. I have no memorandum now in reference to it and do not remember.

Q. Do you know how much money had been expended upon the M. & Vt. Junc. Road before the contract was given up? A. I think it was something over \$300,000.

Q. Did Mr. Linsley receive all of the cash subscriptions? A. No, sir; he received all that was paid in, somewhere about \$60,000 in cash.

Q. And he was to receive \$140,000 in stock. Was that issued to him? A. Yes, sir, whatever the amount was.

Q. And that stock he afterwards turned over to you? A. Yes, sir.

Q. In what state of completion was the road at the time its construction was turned over to you and Mr. Clark? A. I do not remember very well, I was away from home at that time, and Mr. Clark had almost the entire managing of it. I think they had commenced laying iron, and my impression is that there was a portion of the grading; some of the heavy embankments were not completed, and the bridging was not completed, and I think there was considerable iron to lay, but this is only recollection.

Q. Had the iron been purchased? A. I think it had.

Q. And that was Mr. Linsley's obligation that you assumed at that time? A. I think so, I do not remember exactly, I think he gave a list of the liabilities at that time, but I don't recollect precisely what they were.

*Spencer Smith
To whom should it be paid?*

Q. Mr. Linsley was to receive \$60,000 of the cash subscription who was to have the balance? A. I think it has been paid into the Treasury. They had to pay land damages, the contract did not cover land damages. That amounted to between \$20,000 and \$30,000. I think the Treasurer paid that. The incidental expenses, and a great many outside expenses, were met by the Company. Mr. Linsley's contract was simply for the work, that is to build the road.

Q. I understand you that you have not in your possession any document that will determine whether the \$56,000 represented by this voucher No. 1608, (Exhibit 3), was paid to Mr. Linsley or some other party? A. I have not, and I cannot tell to whom it was paid. I do not remember.

Q. Have you any idea that there is anything in existence by which you can determine that? A. I don't know of anything. I don't know whether we can trace any particular sum of money. Perhaps Mr. Merrill may be able to give you some information upon the matter.

Q. Who took the contract for building the Swanton Branch? I think it was Mr. Barnard, from Chicago, somewhere in the West.

Q. Was that contract in writing? A. I think it was. I think the Vermont & Canada have it.

Mr. Safford:—I don't think we have it, but I will ascertain if we have it.

Q. You say you think there was a written contract to build the Swanton Branch, and you think it is in the possession of the Vermont & Canada Road? A. Yes, sir. At the time of the construction of the Burlington Branch, a committee of the Vermont & Canada was appointed to settle with Mr. Clark and myself, and I think at that time the Vermont & Canada took the written contract for the Swanton Branch. All the items and vouchers were then settled and certified, and I think the Vermont & Canada took all papers in connection with the matter. There was a settlement made for the Swanton & Burlington Branch, certified and signed; that is now in possession of the Vermont & Canada, and I should like to call upon them to produce the settlement.

[Mr. Safford said he would look for it.]

Q. Was Mr. Newton Secretary at that time of the Vermont & Canada? A. I have the impression that he was, but I may be mistaken.

Q. Has the interest on this \$200,000 in bonds been paid up to date? A. Yes, it has been paid, but whether the coupons have all been cut or not I don't know. For a long while they were cut off, but for the last few payments that have been made to the Bank of the interest on the S., S. & C. Bonds lying in their Bank, I think our Treasurer neglected to cut off the coupons of the Montreal & Vermont Junction Bonds. When we bought the S., S. & C. Road we purchased of the Foster \$600,000 of first S., S. & C. mortgage bonds. There were certain parties in England who held between three and four hundred thousand dollars of these bonds of the S., S. & C. Road, some as collateral debt, some they held in their own right. They came over here with those bonds and we arranged with them to give them 50 per cent. on those bonds or thereabouts, and they gave us the option of redemption of the bonds—that is to say, we were to deposit their bonds in the Bank.

G. He

London, England

Dear

Mr. J. D. Smith
of 2, Trafalgar
Square, London
I have the pleasure
to inform you that
the same of the
above mentioned
for a copy of the
book.

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J. D. Smith

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Montreal to the amount of \$350,000, and as long as we paid five per cent interest on the one hundred and fifty or sixty odd thousand dollars that is nearly half the amount of the bonds, at their reduced value, were to lie in the Montreal Bank permanently, we having the right to redeem them at any time at the price agreed upon, by paying the principal of the sum upon which we paid interest. When our treasurer came to Montreal to pay that interest on those bonds, as a matter of favor he cuts off the coupons off the Montreal & Vermont Junction bonds, but I think latterly they have not been cut off, as I omitted to ask the treasurer about them.

Q. What I want to find is the method of book-keeping; whether, when you paid the interest on this \$200,000 it would appear in your account as paid? A. They gave us our rent and had nothing to do with the coupons.

Q. Were the coupons delivered to you and Mr. Clark? A. Yes, we delivered them over.

Q. I understand from your statement that they were not paid by the Trust? A. Not at all, sir; the Trust has nothing whatever to do with them.

Examination continued by Mr. WALKER.

Q. I find on ledger F, page 534, an account commenced, entitled, "S. & C. purchase," which is continued through subsequent ledgers, to the termination of the Receivership. The amount upon ledger page 542, under that account, stands at \$475,336.67, which I understood to represent the amount of money expended by the Trust in the chase of the S., S. & C. Road. Am I right in the question of book-keeping; is that what it represents? A. That is more than I supposed was; but, whatever the amount is there, it is right. That amount also include some expenditures upon the road since, but I don't know that it does.

Q. The first item upon that account is on ledger F, page 534, and the date September, 1867, to cash \$250,000, the voucher for that being numbered 3188. Trustees and Managers S., S. & C. R. R., Dr. notes and cash for purchase of said road as per contract—which see? I should like to see that contract, if you please? A. I don't remember at now where it is. Perhaps Mr. Williams knows.

Mr. Fifield:—I have those papers in my possession. I will send to Montpelier for them.

Mr. Walker:—I desire to commence with that subject.

Mr. Dillingham:—Had you not better suspend your examination until you get those papers?

Mr. Walker: I have other matters I can take up.

Q. Gov. Smith, can you state when it was that the new arrangement was made with the Montreal & Vermont Junction? A. I cannot state the exact time. That question came before the last committee. It was either the spring of 1872 or the fall of 1871, I think that we agreed to refer it to some independent parties to say what was right. We admitted that as the earnings had got up it was better for us to come to a fixed rent, than to go along without a definite arrangement. The committee came to the agreement that \$50,000 was a fair rental.

Q. Well, from what date were you to receive that rental? A. That is the point in dispute. We claimed it should commence from the 1st of June, 1872; the committee claimed that it should date back one year—that is, from June 1st, 1871. We have not taken any money for the year; it lies over unsettled—the question is still in dispute. Messrs. Pinkerton and Drury thought it should date back from 1871.

Q. (By Mr. Willard). Did Messrs. Pinkerton and Drury at that time leave with you any paper or statement with their views in respect to that? A. Yes, sir; I will read it.

[Messrs. Pinkerton and Drury's statement was here read by G. Smith.]

Mr. Walker: In connection with voucher No. 1608 (Exhibit 3) I wish to put in this marginal note from Journal I, page 447: "Interest on this amount, \$56,000, is due from Nov. 20, 1865, to the date of payment at same rate that has been paid, on two notes given by Trustees and Managers to the Northern New Hampshire Road, one said notes being for \$50,000, and dated Dec. 14, 1864, the other \$10,000, dated ———, the said interest to be reckoned so annually at 7 per cent."

This entry is carried into the Ledger in an account by itself, containing no other entries. Ledger I, page 81, and headed "Montreal Vermont Junction Railroad, old account," the only charge being item, \$56,000. The credit is "By charge to the new Receivers, July 1873."

[Court adjourned until 2 p. m.]

TUESDAY, JULY 27.—AFTERNOON SESSION.

Court assembled at 2 P. M.

Mr. Gyles Merrill called and sworn. Examined by Mr. Davenport.

Q. When did your connection with the Sullivan Road begin, in what capacity? A. In 1852, as Superintendent.

Q. How long did you remain Superintendent? A. Seven years, sir; from 1852 to 1859.

Q. Have you been connected with the Sullivan Railroad since 1852, until of late? A. No, sir. From 1859 for about a year and half I think Mr. Thompson was Superintendent.

Q. From 1852 to 1859 who was running the Sullivan Railroad? In other words, was it being run by its stockholders, or by some other trust for the bondholders? A. It was run by Mr. Eldridge, who was the Agent or Trustee, as I understand it, for the stockholders.

Q. Was it being run by Mr. Eldridge from 1852 to 1859? A. He had most to do with it of any one.

Q. How many miles of road constitutes the Sullivan Road? A. I think it is 26—about that.

Q. How many bridges are there on it—that is, long bridges? A. Three long bridges, nearly 600 feet long.

Q. And I suppose the usual number of short bridges for the length of the road? A. Perhaps so.

Q. Have you any knowledge as to the original cost of that road?
A. I understood it to have cost one million two hundred and fifty, or three hundred thousand dollars.

Q. Whether the stockholders got anything for the stock they put into the road, or whether it soon passed into the hands of the bondholders? A. After I left the road first, and perhaps after the lease was made, I think to Mr. Brainerd, Mr. Clark and Mr. Smith, the Northern Road became possessed of nearly all the bonds, and as I understood it they had a sale of the road made for the benefit of the 1st Mortgage Bondholders, under the mortgage.

Q. Do you remember the amount of the First Mortgage? A. I think it was \$500,000.

Q. And the holders of the First Mortgage ultimately got the road upon the sale of that mortgage? A. I don't know who bought the road, but I presume parties largely interested in the First Mortgage bonds.

Q. When did you return to the Superintendency of that road; in 1859? A. When the road was leased to Messrs. Brainerd, Clark and Smith. I think it was in 1861.

Q. And for how long had you charge of the road as Superintendent? A. From 1861 to 1873.

Q. Do you remember whether there was any rolling stock came into the hands of Messrs. Brainerd, Clark and Smith, when they took the lease of that road, and if so, what? A. I think there was some.

Q. And how long did they hold that? A. I don't know; a few years. I think two or three years, perhaps longer.

Q. What ultimately became of that rolling stock? A. The Northern N. H. Road took it off.

Q. Whether there was rolling stock sufficient to operate the road when they first took the lease? A. There was not quite enough. They had been assisted by the Cheshire Road at times, and I think have been ever since.

Q. Where does the Sullivan Road end on the South? A. At Bellows Falls.

Q. Does that road end at the river bank; that is, at the West bank of the Connecticut River, or has the Sullivan Road an interest in that yard there? A. They have no interest there, they only track to the depot, though I think they kept it in repair.

Q. During the time that the Lessees, Messrs. Brainerd, Clark and Smith, used the rolling stock of the Sullivan Road, how was that rolling stock kept in repair? A. It was repaired by the Central Road, at the expense of the Sullivan Road.

Q. Repaired at the shops at St. Albans? A. I think large repairs were made here.

Q. And those repairs that were made here were charged to the Sullivan Road? A. Yes, sir.

Q. Now will you state generally, after the lease was taken, what method was adopted in keeping accounts between the Sullivan Road and the Trust? A. The Sullivan Road expenses were kept upon separate books.

Q. When you say Sullivan Road expenses, do you mean the operating expenses of that road? A. Yes, sir.

Q. They were kept upon books called the Sullivan Road books? A. Yes, sir.

Q. And upon those books were entered the receipts from the road, from passengers, freights, mails and express, that is the earnings, and the operating expenses? A. Yes, sir.

Q. That road was operated, was it not, Mr. Merrill, by the Trust, that is the Trust furnished the men and material? A. They only furnished part of the men. They did not furnish trackmen.

Q. Did they, that is the Central Road, furnish all or part of the material? A. The Sullivan Road occasionally bought material of the Central. The Sullivan Road furnished its own rails and ties, but spikes perhaps could be bought cheaper in large quantities, and that the Sullivan bought of the Central. Whenever spikes were sent there or patch iron for mending rails, it was charged over to that road.

Q. Where were the rails repaired? A. At the shop at Charles-town; there was a repair shop there.

Q. Where were the rails re-rolled? A. At various places; some at Worcester and Boston.

Q. Re-rolled with the rails of the Trust, or were separate accounts kept? A. Separate accounts were kept entirely.

Q. Do the books show everything that was charged to the Sullivan Road? A. I suppose they do; they should.

Q. Were those books kept by you? A. Not by me, personally; they were kept under my supervision for a portion of the time.

Q. Do you know whether those books were correctly kept or not? A. I presume they were.

Q. Will you turn to your Ledger—Sullivan Road Ledger—take the year 1867. Now, if you please, state in the first place the gross earnings of that road for 1867? A. The gross earnings for that year as shown in the book I now refer to are \$157,799 51.

Q. Now will you tell the Masters what you have charged for that year, giving each item separately for operating expenses? A. Wood, \$17,090 88.

Q. Does that comprise all the wood used on the Sullivan Road? A. It is intended to, sir.

Q. Does it include the wood used at Stations for keeping fires there? A. I suppose it does, it is intended to.

Q. Give the other items, if you please. A. Hands at Stations, \$19,082 14; Road Repairs, \$28,546 47.

Q. Does that include the new iron and re-rolled iron used during that year? A. It is intended to, sir. It may have been that some iron used the year previous, but not paid for until this year, would be included, or it is probable that that amount may include iron bought and paid for that year but not used until the next year.

Q. What is the next item? A. Freight damage, \$2,276 97; Station Agents, \$2,661 50; Switchmen, \$650 95; General Expenses, \$1,541 76; Expenses of Freight Department, \$6,095 43.

Q. What is it that makes up the expenses of Freight Department? A. That includes train men, running freight trains, expenses of handling freight, &c., at stations, and I think it includes the agent they had in Boston.

Q. Who was the agent in Boston? A. It may have been Mr. Gliddon, but I think it was Mr. Murray.

Q. What is the next item? A. Watchmen, \$621 25.

Q. Was that for watchmen at the stations, or trackmen who walked the track at night? A. I think that was the Watchman at Sugar River bridge; we kept a watchman there always to see the bridge did not take fire.

Expenses of Passenger Department,	-	\$3662	49
Engines,	-	8666	30
Freight Cars,	-	1502	10
Passenger Cars,	-	677	25
Depots,	-	234	75

Q. Is that the expense of keeping depots in repair? A. Yes, sir.

Q. Does that include expenses of employees, etc.? A. No, sir; that expense is included in Station Agents and Station hands.

Q. Give us the next item, if you please? A. Fencing, \$242 94; mail account, \$79 00.

Q. What is included in that amount of \$79 00? A. That is for carrying the mails between stations and post-offices.

Rent account, \$240 00. I don't know whether that includes Bellows Falls station. I see there is a charge of \$100 00 for water at Bellows Falls, and \$35 00 rent of depot there; then comes another \$35 00 for the same, and probably the next charge is \$70 00, which I presume is for two quarters' rent. Bridges, \$197 35; that I presume is expense of keeping the three long bridges in repair for that year.

Taxes,	-	\$3595	86
Depot Furniture,	-	458	28
Oil,	-	1367	74
Road Tools,	-	637	80
Waste,	-	172	61
Repairs of rails,	-	1428	86
Insurance,	-	629	66

Q. Do you find nothing there for stationery? A. There seems to be nothing charged in that year for stationery;—it would most probably run into two years and then be charged.

Q. Is there anything charged for advertising? A. No, sir.

Q. Nothing for general office expenses? A. Nothing further than I have read.

Mr. Fifield: He read one item, general expenses; probably the general office expenses are included there.

Q. Suppose you give the items in detail of the general expense account, Mr. Merrill, so that we may see if any other matters are included or covered by that amount; there are not many items, I think. A. I will read them: Windsor Gas Light Co., \$6 46; W. H. Skinner, \$9 00; A. Combe, \$40 00. The two last I presume are for carrying mails.

Q. If there is anything charged there for advertising or stationery you may read it; tell us what the items are for as far as you go.

A. Gas Light Co., Charlestown Station,	\$ 5 70
Gas Light Co., Charlestown Station,	18 27
Windsor Gas Light Co., two bills,	4 18 each.
Windsor Gas Light Co.,	3 42
Windsor Gas Light Co.,	4 18
Paid G. Merrill,	500 00
(That was for salary as Superintendent, I presume.)	
Paid J. M. Gliddon,	375 00
(I presume that was for purchasing wood and ties.)	
Windsor Gas Light Co., two bills,	2 66 each.
Paid G. Merrill,	250 00
(Probably for salary.)	
Windsor Gas Light Co.,	3 80
Windsor Gas Light Co.,	4 56
Paid S. Baker,	32 91

(I don't know what that was for except by getting the voucher)

Q. Was it for advertising? A. I presume not. I don't know what it was for.

Windsor Gas Light Co.,	6 46
Windsor Gas Light Co.,	5 32
Paid M—— & Muggeridge,	10 00

(I don't know what that item was for; probably for advertising)

Q. Can you get the vouchers for these amounts easily? A. I don't know, sir. I presume they are in the office.

Paid G. Merrill,	\$250 00
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(For salary I presume.)

Windsor Gas Light Co.,	300 00
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That is all the general expenses for 1876. I think it most probable that the stationery may not have been charged that year—probably an oversight. An account was kept of it all the time, and most of the two years would appear together in the accounts for 1868.

Q. Please now look at your ledger account and see how much charged for stationery in 1868? A. Here is the account: Stationery \$365 62, which probably includes two years.

Q. What was it in 1869? A. I don't see any charged in 1869, but in 1870 there is \$347 48 for stationery, which again most likely includes two years. In 1871 there is \$5 75 and in 1872, \$376 00 for stationery. The account of stationery was kept by the clerk and was returned when called for.

Q. Now see if you can tell me what was charged for advertising in 1868, 69, 70?

A. In 1868 there is	\$17 10
" 1869 " "	15 03
" 1870 " "	17 88
" 1871 " "	35 00

Q. Now under the term "Advertising," does that cover time &c? A. I presume not.

Q. What includes that? A. That would be covered in Newspaper Advertising.

Q. Please look at the Ledger and say how much is charged for the two or three years preceeding 1869?

A. In 1866 there is \$21 43 advertising,
 " 1865 " " 25 00 "
 " 1864 " " 45 83 "
 " 1863 " " 22 00 "
 " 1862 " " 10 00 "

Q. How about the Stationery?

A. In 1866 it is \$346 09
 " 1865 " 443 23
 " 1864 " 169 07
 " 1863 " 206 00
 " 1862 " 40 90

Q. Now, Mr. Merrill, have you not got somewhere on that book an aggregate of the operating expenses of that road for 1867? A. I think it is. Yes it is, \$104,015 20, in which the rent is included. The operating expenses without the rent is \$83,465 20.

Q. How much do you take out for rent? A. \$20,550.

Q. Now what was the amount of profits, that is of net earnings, after deducting operating expenses for the year 1867? A. \$75,334 31.

Q. Now will you please tell the Masters what percentage the net earnings of the Sullivan for 1867 bore to the gross earnings? A. Nearly 47½ per cent.

Q. Now for the purpose of showing whether this is a fair statement will you please take the preceeding and succeeding year—you need not give it all in detail?

Judge Poland: We will have a statement made giving you the gross earnings and expenditures of each year and you can then have them all.

Mr. Davenport: That will answer every purpose.

Q. Mr. Merrill, what was allowed to the Trust for the use of the engines per mile? A. 12c I think.

Q. Was that allowed during all the period? A. I think so.

Q. What did that 12c cover? A. Simply the use of the engines.

Q. To make sure, will you please look upon the book and see what was charged in 1867? A. For the first half of the year it was 8 9-10c.

Q. When was the price raised to 12c per mile? A. I was raised in 1869 to 12c.

Q. Can you tell the reason why it was raised from 8 9-10c to 12c per mile? A. 8 9-10 was the actual mileage cost to the Central Road for the use of locomotives, during that period up to the time these changes were made and when the equipment loan was made, by order of the Court, the engines covered by the equipment loan was rated at 12c per mile, and the change was then made.

Q. You say 8 9-10c per mile is the actual cost of the engines to the road? A. It was for a long time.

Q. What do you include in that term, "actual cost to the road?" A. I took the engine at its valuation at a former period, added to it expenses for repairs upon the engine, deducting from it the valuation of

the engine at the end of a long period, dividing the same by the number of miles run.

Q. You made no allowance for interest on capital invested? A. No, sir.

Q. So that if an engine cost \$20,000 a year, and if that engine was run upon that road, you would not include anything for the capital invested in the engine? A. I did not add anything in making the account.

Q. What did you allow the road for hauling freight cars over? For instance you had freight trains running from Windsor to Bellow Falls; how did you get at the compensation to be allowed the road for the use of that road in hauling trains over it; for the use of the road, mean? A. The freight cars received the same compensation, I think, that the road paid the other roads, and that the Central received from other roads.

Q. What did the Central Road receive for the use of its cars when they passed over that road? A. I am not sure; I will find out.

Q. Well, that is an important point. Will you kindly make yourself sure. Do you not know what price was allowed by that road to other roads for the use of cars? A. Different prices for different roads. $3\frac{1}{2}$ ¢ per ton per mile was allowed on the Conn. River Road; the price on the Cheshire Road was $1\frac{1}{2}$ ¢ per ton per mile, but that covered use of car and risk. The contract between the Sullivan and Cheshire Roads made the Sullivan Road responsible for a great many accidents that might happen.

Q. Is it your recollection that the Trust received for the use of its cars $3\frac{1}{2}$ ¢ per mile for each ton of freight transported over the road? A. I think so.

Q. Well, that will be ascertained soon. Was any allowance made for empty freight cars transported over the road? A. No, sir.

Q. Now, when the Vermont Iron & Car Company's cars and the cars of the National Car Company ran over that road how did you get at the compensation? A. I am not sure now, how it was.

Q. Well, the National Car Co.'s cars and those of the V. I. & C. Co. were allowed $2\frac{1}{2}$ ¢ per mile each way, when their cars run over that road by the Sullivan Road, were they not? A. I do not know whether it was by the Sullivan or Central Road.

Q. They were allowed by one or the other, were they not, $2\frac{1}{2}$ ¢ per mile? A. I think they were at one time. In reply to your former question, about the allowance for the use of cars, Mr. Hobart tells me we paid $1\frac{1}{2}$ ¢ per mile.

Q. Do you yourself know that to be the fact? A. No, sir, except as Mr. Hobart tells me. It was my impression.

Q. Do you know it to be the fact that the V. I. & C. cars and National Car Company's cars got $2\frac{1}{2}$ ¢ per mile for the use of their cars for each mile ran, whether full or empty, upon the Sullivan road, either from the Sullivan road direct, or from the Trust? A. I think it is likely they did, but I do not know that to be the case; my recollection is that it—

Q. You had better make yourself sure on that point, Mr. Merrill?

A. Mr. Tinker is now referring to find out.

Q. Now, what did the Trust get for the transportation of passengers from Windsor to Bellows Falls over that road; how did you get at that? A. We paid for the passenger cars by the mile run.

Q. Now, what do you pay for each mile run? A. I think it is $2\frac{1}{2}$ cents per mile, but I can only ascertain that by getting the vouchers.

Q. Well, sir, go to the vouchers; that is another important item in this matter. A. I find on reference that $2\frac{1}{2}$ cents per mile was the price paid for passenger and baggage cars each way.

Q. Now, will you please tell the Masters what the Trust would receive for the transportation of a train of two passenger cars, one baggage car, with engine to draw it, from Windsor to Bellows Falls, under the system in which you kept the accounts? A. It would receive 19½¢ per mile for 26 miles, that would be \$5 07 from Windsor to Bellows Falls. In reply to your question about the freight cars, I am told by Mr. Tinker, who kept the books, that until August, 1872, they paid the Central Road 8½¢ per mile.

Q. Are you satisfied that this is the fact? If you are I am willing to take your statement. A. I think that is the fact, sir. Since that date it has been 8½¢ up to July, 1873. The National cars and V. I. & C. cars used by the Sullivan Road were paid for at the same rate by the Sullivan Road as the Central paid for them.

Q. Well, now, to go back to the subject of passenger cars? A. If you will permit me in connection with the 8½¢ per mile—in looking up those papers I find the data upon which I made that figuring. I took the cost for ten years, up to July 1st, 1862, taking the value of the engine in July, 1852, adding the entire expenses in the way of repairing and rebuilding during the ten years, and then taking the value of the engine in 1862. I then found the number of miles the engine had run in those ten years and divided the total cost by the number of miles, which gave me the actual cost per mile.

Q. Now, Mr. Merrill, I want to get at the whole amount the Trust would receive for the transportation of a train consisting of two passenger cars, one baggage car, and engine and tender between Windsor and Bellows Falls. I want you to include the whole amount, if you have any way of getting at it. A. That would be difficult to get at. It might vary from time to time. The Baggage man ran between St. Johnsbury and Springfield, and charged the Sullivan Road with his proportion according to mileage. There was a Baggage man running on the train leaving Windsor in the morning, and the Sullivan Road furnished the man for that train, and the lower roads paid their share of his expenses. But upon our trains on the Central Road the Sullivan Road bore its proportion according to the distance the man ran. For instance, he might run from St. Albans to Bellows Falls in a day; the Sullivan proportion would be ⅔. If he went to White River Junction and back the Sullivan road would pay ⅔.

Q. Let us keep to one train, if we can. If you cannot tell, will you not give the approximate cost of the baggageman, engineer, fireman, brakeman, etc.? A. It would vary very materially; some trains

started from White River Junction. It would take a good while for to answer your question. Some men were supplied by the Sullivan Passumpsic and Conn. River Roads. The Sullivan Road furnished own Baggage-master for trains that went on to Windsor.

Q. Well, suppose you take a train furnished exclusively by Central Road? A. It will take some time for me to figure it out.

Q. Can you tell, Mr. Merrill, about what was the size of passenger trains running over the road between Windsor and Bellows Falls, what the number of cars? A. The morning train would have one passenger and one baggage car. The mail trains would have baggage car, smoking car and two passenger cars; and the night train had baggage car, passenger and sleeping car generally, but sometimes more than that.

Q. About what would be the number of passengers transported the train? A. I cannot tell that without looking at the reports.

Q. Have you any reports by which you can tell the number of passengers transported by the year? A. I think there are such reports.

Q. Will you furnish a statement of the number of passengers transported each year and show what the Trust got for the transportation of those passengers? A. The Trust would not transport them. The Trust only furnished part of the men and part of the cars. The Central River road furnished some of the cars and the Passumpsic furnished some.

Q. There was a division of profits made in 1867 which you have already testified to, and we desire to ascertain how much the Trust received for what it did towards earning the money which the Lessees received. There is another way by which we can perhaps get at what was the amount received by the Lessees of the Sullivan Road the year 1867 for passengers? We will keep to that year. A. In 1867 the receipts were \$60,814.

Q. Now, what did the Trust receive as its share for the transportation of these passengers? A. I do not understand that the Trust transported them.

Q. Will you look at the expense account and find out what it cost to transport those passengers? Tell us what it cost the Lessees of Sullivan to get this sixty thousand odd dollars worth of passengers transported. A. That is a difficult question for me to answer. I do not know if any one can tell the relative cost very well.

Q. Can you not tell how much is charged on your books for transportation of those passengers, that is how much the Vermont, Central and Vermont & Canada charged the Sullivan Road?

Q. (By Mr. Willard.) Does not the Trust in the first instance pay for all the expense of transportation of passengers and freight on that road and then charge it over to the Sullivan Road Lessees? For the convenience of keeping the accounts, the trainmen who upon both roads were furnished by the Central and paid for by Central. If they did not run on to the Central they were not. There were some men who ran between Bellows Falls and Windsor who were paid by the Sullivan Road.

Q. Were they not paid through this office and by the Trust, and then the amount charged over to the Sullivan Fund? A. No.

Q. Did you have a separate Sullivan Fund here? A. Yes, sir.

Q. What Bank were the Sullivan Funds kept in? A. The same Treasurer had the charge of both funds.

Q. I understood you to say, Mr. Merrill, that all the money went through the Trust, receipts and expenditures. A. I did not want to be understood so.

Q. Who kept the Sullivan books? A. The same chief clerk who kept the books of the Trust.

Q. Was that office in this building? A. Yes, sir.

Q. Who paid him for his services in keeping those books? A. He was paid by the Trust.

Q. Now, was there not a separate purse kept for the money of the Sullivan Road? A. I think the Treasurer kept the money all together.

Q. Did he keep a separate account? A. Yes, sir.

Q. Now suppose you transported a lot of freight over the Sullivan Road and that was delivered to the Connecticut River Road, who would the Connecticut River settle the bill with for that freight? A. They would make the division, and the Sullivan Road would receive the proportion for its own road and this road as one sum, that was for the convenience of keeping the accounts.

Q. Will you now answer the question as to what the whole amount of expenses of the passenger department were, as shown on the books for 1867, that is what this Trust charged over to the Sullivan Road for the expenses of transporting all the passengers over that road for that year? A. It will take some time to get that from the books.

Q. Cannot you get it by referring to the book—can you tell the expenses of the passenger department? A. I don't fully understand your question, Mr. Davenport.

Q. The Lessees of the Sullivan Road received sixty thousand odd dollars for its earnings in the transportation of passengers, that is understood. Well, the Trust furnished cars, engines and men to transport those passengers, and you have already stated that the expenses of running the Sullivan Road were charged by the Trust to the Sullivan Road and taken out of the earnings of that road? A. I did not intend to convey that impression. I meant to say that the books and money were all kept separate—the books were kept separate and distinct, and only for convenience was the Sullivan money kept with that of the Trust. I think the Treasurer often used the Sullivan money to pay bills, because the Sullivan Road always had money on hand.

Q. I want to ascertain, Mr. Merrill, what the Trust got for the transportation of the \$60,000 worth of passengers? A. They received \$3,662 49.

Q. Is that all? A. That is all the amount charged that year, but it is only for men, and does not include use of locomotive or fuel.

Q. That is what I want to know. The total amount received by the Trust for its share of the work in transporting the passengers for which the Sullivan Road received \$60,000. A. I cannot answer that question readily. I should have to go to the vouchers and separate the passenger vouchers from the freight vouchers. For instance, I should have to find the number of miles run, how much wood, oil, &c., was con-

sumed, and how much waste—it will take some time. I will make up a statement and have it ready, if possible, to-morrow morning.

Q. That will answer the purpose. Now, Mr. Merrill, would you be able, by an examination of the books, to tell how much it cost to transport a ton of freight per mile over the Sullivan Road? A. Not accurately, because the expenses are all kept together and it would be difficult to tell.

Q. Well, most railroads are able to furnish such statements, are they not? A. Theoretically they do furnish them; practically they are of no value whatever. I do not think I could furnish you with any data that would be of any value, it is almost impossible.

Q. Well, I will leave that subject for the present. Mr. Merrill, were you Superintendent during the period that the Swanton branch of the Vermont & Canada was being constructed? A. Yes, sir.

Q. And during that time you were treasurer of the Trust, were you not? A. I was sir.

Q. Whether you had charge of the disbursement of the money that went out of the Trust to build that Swanton branch? A. Yes, sir, I think I had.

Q. Did all the money that went to build that branch of the road pass through your hands? A. I should think it did. It is some time ago, but to the best of my recollection, it did.

Q. To whom did you deliver the money used for the construction of the Swanton branch? A. I think it was paid to the contractor, but I cannot remember distinctly.

Q. Who was the contractor? A. I think it was Mr. Geo. Linsley. No, I am mistaken; Mr. Barnard was the contractor. I do not know where he came from.

Q. Was he a partner of Linsley? A. I do not remember.

Q. Who was Mr. George Linsley? A. He was brother to Mr. D. C. Linsley.

Q. Now, do you know for certain whether George Linsley or Barnard was contractor for the building of the Swanton branch? A. I think it was Mr. Barnard.

Q. Was there any written contract? A. I do not remember; I presume there was. I do not recollect ever seeing a contract in writing, though there may have been one.

Q. What vouchers did you take for the money which went out of your hands for the Swanton branch of the road? A. I do not remember now.

Q. Did you take the contractor's voucher, or Governor Smith and Mr. Joseph Clark's vouchers? A. I do not remember exactly, it is such a long time ago—ten years ago.

Q. Can you tell by an inspection of the books of this management where we shall find the vouchers, or the account of the construction of the Swanton branch? A. I think it is in the chief clerk's office; I am not sure.

Q. Well, is there no account of it on the books? A. Yes, sir, I think there is.

Q. Can you produce any book that contains an account of the construction of the Swanton Branch of the Vermont & Canada R. R.? A. I think the books are here.

Q. Do you know whether the Montreal & Vermont Junction was being constructed simultaneously with the Swanton Branch? A. I think it was.

Q. Which was begun first? A. I do not recollect.

Q. Which was completed first? A. I think they were finished about the same time—perhaps the Swanton Branch was a little the first.

Q. Do you know where the iron was obtained from to build that road—the Swanton Branch, I mean? A. The iron first laid was old rails taken off the Central Road.

Q. Whereabouts on the Central Road did those rails come from? A. All over the road. I found by experience that the old rail was best suited.

Q. And you advised them to put old rail down? A. Yes, sir.

Q. How long did those old rails remain on the Swanton Branch before they were replaced by new rails? A. All the way from one year to half a dozen.

Q. Now, is it not a fact, Mr. Merrill, that those old rails remained on the Swanton Branch until the price of iron went down. Was not one of the causes of putting down old rails, the enormous price of new iron in 1864? A. No, sir. The rails that were first laid were good rails, although they had been taken up from the Central Road.

Q. Don't you remember that among those old rails you took some from the old branch road at Burlington? A. A portion of them.

Q. About how much old rail came from there, do you think? A. I should think not more than a mile.

Q. Is it your recollection, Mr. Merrill, that all the rails for the Swanton Branch were second-hand rails, used more or less? A. I may be mistaken, but I think they were.

Q. Were they replaced by new rails that were taken up on the Vermont Central; that is, did you buy new rails that year to put in place of the old? A. Yes, sir. Perhaps not every single rail, because we took enough old rails to lay the whole of that track. My experience in the Burlington Branch led me to think it would be better policy to put old rails down on the Swanton Branch.

Q. Do you know where the iron came from that was used upon the Montreal & Vermont Junction Road? A. I think it came from New York.

Q. Do you know the name of the house in New York of whom it was purchased? A. I do not recollect of whom all the iron was purchased, I cannot remember. I know I paid one large bill in New York.

Q. Do you remember the name of the house you paid that bill to? A. No, sir.

Q. How large was the bill you paid? A. I should think it was for \$50,000.

Q. Did you pay that amount in gold or currency? A. I think I paid it in currency, but at the gold price—I paid 190 for the gold. I

think the iron was taken out of a bonded house in New York ; it passed through the country in bond I know.

Q. And that was not subject to duty as it was for use in Canada ?
A. No, sir.

Q. Now can you give us the name of the house to whom you paid the \$50,000 ? A. I do not know that I can. I presume I passed the voucher over to the building committee of that road, or to Mr. Linsley.

Q. Who do you mean by the building committee ? A. Mr. Smith, Mr. Clark and Mr. Moore, I think, I am not positive about Mr. Moore—it might have been Mr. Foster.

Q. To which of the members of the building committee do you think you passed the voucher ? A. I don't know. I think I had business in New York and paid the bill at that time. I did not go specially to pay the bill.

Q. Where did you get the money from to pay that bill ? A. I am not sure ; perhaps some government of Canada debentures—but I am not sure whether the money came from that source or not. I think I sold some of the Canada government debenture bonds in Montreal.

Q. Do you remember what price you realized for those bonds ? A. I cannot say ; I do not remember.

Q. About what was it—less than par or above par ? A. Less than par. I should think about 92½, but I am not sure.

Q. Did you get gold ? A. I think I did.

Q. And you took that gold and converted it into currency and took the currency to New York ; was that how you did it ? A. I am not sure whether both those transactions were done at the same time. I think I sold the bonds in Montreal some time before going to New York.

Q. What did you do with the money you got for the debentures ?
A. I am not sure.

Q. Did you use the money about your business here until you wanted to buy that iron for the company ? A. I do not know if the money was mixed with the Central money at all.

Q. Do you think it was deposited anywhere ? A. I do not know whether I kept the money, or whether I handed it to Mr. Smith, or Mr. Clark ; I don't remember what I did with it.

Q. Do you know whether you took currency or exchange to New York to pay the bill ? A. I don't know which it was.

Q. Have you anything in your possession at all that will show of whom you purchased that iron ? A. I don't think I have.

Q. Do you remember the price you paid for the iron ? A. I do not, sir.

Q. Was it Naylor & Co. ? A. I should not think it was. I rather think Jessop was the name. I think it was Jessop and some other name. I know I have had transactions with them, but whether for that road or the Central, I do not recollect.

Q. So that all the iron you ever bargained for was paid for by the M. & Vt. Junc. road ? A. I think so, sir. Mr. Linsley got some iron, but I do not know where from.

Q. Are the books of this road so kept that it could be ascertained how much iron went on to each section of the road during each year? A. No, sir.

Q. Do not railroads usually keep their books in such a way that this fact can be ascertained by them? A. I do not think so, sir. The roadmaster of each division has a section of the road which he looks after and he calls for what iron he requires for his section, which is supplied to him.

Q. Don't you keep any account with the Roadmasters? A. No, sir.

Q. Then when the iron is supplied to the Roadmaster, that is all you know about it afterwards. You have no system of checks or balances. A. Not for that.

Q. So that under your system there is nothing to hinder a Roadmaster, if he pleases, stealing a lot of railroad iron, instead of putting it on to the track? A. I could tell from a private memorandum to whom the rails were sent every year, and to exactly which part of the road they went.

Q. Where is that memorandum; have you got it in your possession? A. I do not think I have it here; it may be at Haverhill.

Q. Have you any books by which you can tell how much new iron was laid upon the different sections of the Vermont Central R. R. and Vermont & Canada R. R. during each year? A. I can tell pretty nearly.

Q. Will you produce the memorandum books that you say you have at Haverhill? A. I will if I can find them; I think they are there.

Q. Will your books for 1864 tell where on the Vt. Central Road or Vt. & Canada Road these old rails came from that were laid down upon the Swanton Branch? A. They will not, but they will tell where the new iron was laid down during 1864 and 1865 on the Vt. Central Road.

Q. And you think you have those books? A. Yes, sir, I think I have. I kept those items on private memorandum books, which I am willing to produce, if I can find them.

Q. Did you ever compare notes with the road masters to see that your account and theirs corresponded? A. I don't think I did. I went over the road often to examine how the rails were wearing.

Q. I will now call your attention, Mr. Merrill, to a number of vouchers, upon which I shall ask a few questions. I will read one; they are all about the same style: "Voucher No. 5094, dated St. Albans, Sept. 12th, 1863. G. Merrill, Esq., Sup't, please pay to the order of Joseph Clark and J. Gregory Smith, agents of construction for extension of Vt. & Canada R. R., \$5837 91 and charge to extension account of Vt. & C. R. R.

W. C. Smith, Treasurer, Vt. & C. R. R. Co., endorsed on the back—Joseph Clark and J. Gregory Smith, agents for construction of Swanton Branch Vt. & C. R. R.

The following are the remainder of the vouchers:—

VOUCHER NO.	DATE.	AMOUNT.
5247	Oct. 8th, 1863,	\$13,000 00
5371	" 28th, "	15,000 00
9220	May 10th, 1865,	82,505 75
5531	Nov. 18th, 1863,	12,000 00
9219	May 10th, 1865,	8,623 03
8232	Dec. 7th, 1864,	10,000 00
5778	" 9th, 1863,	15,000 00
7807	Nov. 1st, 1864,	13,000 00
7806	Oct. 14th, 1864,	12,000 00
7801	Oct. 3d, 1864,	5,000 00
7598	Sept. 9th, 1864,	10,000 00
7366	Sept. 1st, "	10,000 00
7368	Aug. 23d, "	5,000 00
7369	" 10th, "	10,000 00
6026	Feb. 1st, "	6,000 00
6398	April 2d, "	12,000 00
6586	May 1st, "	20,000 00
7045	June 7th, "	20,000 00
7190	July 12th, "	20,000 00
13071	Nov. 30th, 1865,	5,000 00
6198	Mar. 1st, 1864,	8,000 00
14365	Nov. 12th, 1866,	5,255 12

Q. Mr. Merrill, are you satisfied, from an inspection of vouchers, that you paid the amounts they represent to Governor or Mr. Joseph Clark, or their order? A. I think I am, with the tion of that last one, 14365, which I think was paid by Mr. Willis

Q. Do you know what was done with the money which yo on those vouchers? A. No, sir, I do not.

Q. Are there any other vouchers in the possession of the Re and Managers, to your knowledge, for that money, save the on now hold in your hand? A. I do not know of any.

Q. Did Governor Smith or Mr. Clark return to the managen to the office here any statement of what they did with that money They did not. The money was paid to the order of the Verm Canada Road and was charged them.

Q. Is there, to your knowledge, anything in this office th show what they did with that money? A. I don't know that th

Q. Now, will you state where upon the Ledger the accou which these vouchers are the evidence is to be found? A. Pa Ledger E, and page 174, Ledger F.

Q. In whose hand-writing are the entries upon those Le A. Mr. Forbes. He is now dead.

Q. Do you know, Mr. Merrill, where the spikes and chain were used for this Swanton Branch came from? A. I don't re I think the chains were off the Central Road, because the chain the old rails. I think that was the case, I am not sure. I pres spikes were bought.

Q. You used new spikes? A. Yes, sir, I think we did.

Q. Where did the ties come from that were used upon the Swanton branch? A. I think they came out of Canada.

Q. Do you know about what the ties cost from the years 1863 to 1865—that is the Canada ties? A. I do not remember.

Q. What was the highest price you ever paid for Canada ties? A. I think 13c is the highest price in my recollection. That is in gold.

Q. And from that down to what price? A. We bought them for the S., S. & C. Road as low as eight cents, but that was before the Swanton branch was built.

Q. What was the quality of the ties that came from Canada—that is what wood were they? A. Hemlock and Tamarack.

Q. What did you pay for Hemlock ties this side of the Line? A. We were paying at that time I think about 25c for Hemlock.

Q. And what for Tamarack? A. We could not get any Tamarack on this side of the Line.

Q. Is there anything included for either iron, spikes, chairs or ties in the vouchers to which your attention has been called? A. No, sir. I judge they were bought for cash.

Q. Then so far as you can judge from the appearance of the vouchers the iron, ties, chairs and spikes were all paid for or obtained from other sources than with that money? A. Well, I don't know what was done with the money, whether it was used to pay for ties or not.

Q. Was any of that money re-paid to the Trust for iron or spikes? A. Not to my knowledge.

Q. Nor for railway ties? A. It is possible it was re-paid but I have no remembrance of it.

Q. Can you tell by looking at the books whether the Trust ever got back any of that money for which you have read the vouchers for either iron, ties, chairs, spikes or anything else that the Trust furnished?

A. Yes, sir, an examination of the books will show.

Q. Suppose you refer, you have the books? A. I find J. F. Barnard paid the road:—

\$	7,509	49	for shop stock,
	372	05	“ freight,
	688	00	
	61,824	71	paid to Barnard.

Total, \$70,494 25

Probably the chairs, spikes, &c., are included in that amount. That entry is in Mr. Forbes' writing.

Q. Is there anything in the office by which you can tell how those amounts are made up? A. I do not know that there is; possibly a memorandum was given to Mr. Forbes to make the entry from, but where that is I cannot tell. I will see if it can be found. The entry for shop stock is, “Received of J. F. Barnard for shop bills,” that is in my hand-writing. The entry for freight account is, “Received of J. F. Barnard, \$372 05.” There is an entry, “Road repairs, received of J. F. Barnard for 806 tons of rails.”

Q. Does that cover the amount of iron used on that road? A. It does, unless there is a mistake on my part in making up the bills.

Q. You are satisfied, Mr. Merrill, that that covers all the iron which went into the Swanton Branch? A. I think so.

Q. That was all second-hand iron? A. The iron that went there was second-hand, but whether this charge is for second-hand iron or new I do not know.

Q. But would you charge him for second-hand iron and put in new? A. If the Company thought it would be better to put in old iron they might have charged him the price of new.

Q. Would not that number of tons—806 in round numbers—would not that just about lay the road? A. I presume it would.

Q. Does that quantity of iron cover the whole quantity that went into the Swanton Branch, as you now understand it? A. I suppose it does.

Q. Have you any reason to suppose it does not—that this item does not cover all the iron? A. No, sir.

Q. Do you find anything else that was paid to the management, except those items? A. I do not think there is anything else.

Q. Now, Mr. Merrill, I will call your attention to some vouchers. I show you voucher No. 7751, dated Aug. 20th, 1864, for \$51,000, and ask you what it is for? A. New iron and re-rolling iron.

Q. Give the number of tons of new iron in that bill and the number of tons of re-rolled iron? A. 300 tons new iron, 122 tons re-rolled iron.

Q. I show you voucher No. 8830, March 2d, 1865; what is that for? A. Re-rolling 500 tons.

Q. Voucher 7151? A. 59 tons new iron and 100 tons re-rolled iron, dated June 22, 1864.

Q. I show you voucher No. 7146, dated June 16th, 1864, and ask you what it is for? A. New rails, bought of Naylor & Co. 249 tons new rails, at 56½—in bond—gold purchased to pay for it at 250 per cent.

Q. Voucher 8526, dated Feb. 7th, 1865; what is that for? A. 70 tons of iron re-rolled.

Q. Voucher No. 8212, Dec. 10, 1864? A. Is for 341 tons re-rolled.

Q. Voucher 8043? A. For 60 tons of iron re-rolled.

Q. Voucher 8527? A. About 145 tons re-rolled iron.

Q. Voucher 6322? A. N. Washburn, re-rolling about 100 tons.

Q. Voucher 6692, May 10, 1864; what is that for? A. Two hundred tons new rails, Bay State Iron Co.

Q. Voucher 6405? A. Nathan Washburn, a little over a hundred tons re-rolled iron.....

Q. Voucher 6124, Jan. 21, 1864? A. Is for about 65 tons new iron, Bay State Iron Co.

Q. Voucher 6125, Feb. 5, 1864? A. Is Bay State Iron Co., about 53 tons new iron.

Q. Voucher 5801, Nov. 18, 1863; what is that for? A. Three hundred and twenty-six tons of new iron.

Q. Voucher 5511, Oct. 31, 1863? A. Is for payment of old rails exchanged for new. We gave them old rails and paid the difference,—

they furnishing us with new rails—\$349. The Central Road paid for the new iron \$349 and some old rail.

Q. Voucher 5503, Oct. 8, 1863? A. Nathan Washburn, re-rolling about 55 tons.

Q. Voucher 5218, dated Sept. 18, 1863? A. To Nathan Washburn, for re-rolling about 120 tons.

Q. Voucher 5217, Sept. 23, 1863? A. To Bay State Iron Co., re-rolling 140 tons.

Q. Voucher 5383, Oct. 14, 1863? A. The Bay State Iron Co., 206 tons new iron.

Q. Voucher 5142? A. Rensselaer Iron Co., re-rolling 98 tons.

Q. I now show you voucher 1608, of which there has been a copy furnished. What is that for? A. I do not remember, except as it expresses itself on its face. I do not remember the transaction. It was called to my attention before, but I don't recollect anything about it.

Q. Do you know to whom that money was paid;—can you tell from the way the paper reads? A. No, sir. I have no doubt it was paid to Messrs. Clark and Smith. There is their receipt upon the back.

Q. Did you pay it to Messrs. Clark and Smith, and in cash? A. I suppose it was paid to them; and I presume it was paid in cash, or equivalent to cash.

Q. The transaction took place with you, did it not? A. I think so, sir.

Q. Do you feel certain that you did not pay that money to Asa B. Foster, of Waterloo? A. His receipt is not on the back of it.

Q. Would his receipt necessarily be upon the back of it if it was endorsed by him? A. Yes, sir. This is receipted on the back, "received the amount of within. Joseph Clark and J. Gregory Smith." I have no doubt that it was paid to them.

Q. Are these signatures in the proper handwriting of Joseph Clark and J. Gregory Smith? A. Yes, sir, I think so.

Q. Did you enter that \$56,000 in the book at the time? A. I don't know whether I did or not. I have no distinct recollection of the transaction.

Q. Will you look on the book, Nov. 20, 1865, in the Ledger, and see if you can find any trace of that \$56,000? A. It is entered here, page 89, Ledger F, November 20th—"Montreal & Vermont Junction Road on account, \$56,000."

Q. Do you find it charged to the Montreal & Vermont Road, \$50,000? A. Yes, sir.

Q. Whether you find at the same date a charge to Asa B. Foster of \$65,000? A. Yes, sir.

Q. What is the number of the voucher that Asa B. Foster gave? A. 1607, and the number of the voucher you just handed me for the \$56,000 is 1608.

Q. Now, can you tell if these two entries are parts of the same transaction, and whether or not the sum of \$56,000 was passed over Messrs. Clark and Smith after the \$65,000 was paid over to Mr. Foster? A. I cannot tell. The entries seem to have been made at the same time.

Q. Do you feel certain that the \$56,000 was not delivered to Foster? A. I do not think I delivered it to him.

Q. Was not Mr. Eugene Putnam present at the time the transaction took place? A. I do not recollect.

[Court here adjourned until 9 a. m., Wednesday, July 28.]



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WEDNESDAY, JULY 28th, 1875.

Court assembled at 9 A. M. Governor Smith re-called. Examined by Mr. Walker.

Q. How long is the S., S. & C. Road? A. I think it is a trifle longer than 44 miles.

Q. What are its termini? A. Waterloo and St. Johns.

Q. At the time of this arrangement, dated 11th May, 1866, who was in possession of that road? A. The Trustee's, as such.

Q. How long had you been in possession of the road? A. Well, I cannot tell exactly without referring. My impression is that it was from 1862 or 1863. I should think 1862, but I am not confident.

Q. Who was in possession prior to that time? A. Mr. Foster, as Lessee of the road.

Q. From whom did you take your title when you first entered in 1862? A. Under Mr. Foster.

Q. Was that a verbal or written arrangement? A. I think we took possession of the road as a collateral security for certain loans which the Trust had made to Mr. Foster.

Q. Was there a verbal or written arrangement? A. I think at first there was a verbal arrangement.

Q. When was the first written arrangement. Was there any prior to this one, dated May 11th, 1866? A. I think there was one, sir, but I cannot tell where it is,—I cannot find it. We first took the road to secure us the loan to Mr. Foster. We then took the engines off that road in order to give us a title, and we put our engines on that road in place of those we had taken off.

Q. What was the amount of the loan you mention? A. \$20,000.

Q. Then, in the first place, you assumed the operation of that road as collateral security for the payment of a loan of \$20,000? A. Yes, sir.

Q. How long did you operate it under that arrangement? A. We operated it all the while until another arrangement was made. There was a memorandum made of the loan and the collateral security, and we went on making further loans to Mr. Foster. We advanced him—I should think—forty or fifty thousand dollars.

Q. Will you produce that memorandum? A. I will try.

Q. For what purpose were those loans made to Mr. Foster? A. Our primal object was to get the control of that road.

Q. Can you tell what the money was used for by Mr. Foster? A. For debt, I think. The Vermont & Canada Road authorized us to lease the Montreal & Champlain Road, as it was then called, in order to perfect their line through to Montreal. We negotiated that lease, so far as to carry it through the Board of Directors of that Company. That road runs from Rouse's Point to Montreal, but did not include the right to cross the bridge. They had the road built from Rouse's Point to St.

Gov Smith
C S S & C RR
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Lambert. The Vermont & Canada authorized us to take the lease that road, and we negotiated it so far as to conclude the contract with the Directors. At that time the Grand Trunk Railway heard of our movement, and went to work among the stockholders of the M. & Co., and took the road themselves. They then commenced to negotiate for the S., S. & C. Road, and we also started to get possession of that road. The G. T. R. R. were consummating a purpose which we supposed they had at the time, to get control of the S. S. & C. Road. Mr Foster, at that time, was relying upon the G. T. R. for the supply of a portion of his passenger cars and freight cars. For this assistance in the way of cars and for the use of an engine, the G. T. R. demanded from him an exorbitant sum daily. He then came to us and wanted us to let him have some motive power to run his road; and he also wanted to borrow some money, so as to sever his connection with that road. We determined to have an independent line to Montreal, and the S. S. & C. Road had a perpetual right to build an independent line to Montreal. That was one of our objects in securing the S., S. & C. Road, so that we might secure the charter of that road, with its perpetual right to extend its line to Montreal; that would be about 22 miles. We took this S., S. & C. Road partly to cut it off from being a competing line against that road and partly to secure that charter to build the road into Montreal, as to have a line from Boston to Montreal. We then loaned Mr. Foster \$20,000 to redeem his obligations to the Montreal & Champlain Road and then as security we took off his engines. One of them was a new engine, just put on the road, and the other an engine which had been running some years. We also took the tools and furniture, and took possession of the road under the idea that we were to become the ultimate purchasers of the road. Mr. Foster took the \$20,000; we stocked the road with our engines and took his off, which gave us a security; then from time to time, as he was pressed for money, we advanced him some.

Q. Do you understand that those loans you made to him from 1861 to 1866 appear in the books of the Trust? A. I think they would appear in the Bills Receivable book; we took his notes for the money advanced.

Q. Have they been repaid? A. They were all brought into the general settlement and included in the general arrangement.

Q. That is, in this arrangement you released your claim upon him for that debt in addition to the property you bought? A. Yes, sir.

Q. Then the road cost you in addition to the consideration expressed in the deed, also the amount you had advanced to Mr. Foster? A. Well, I don't know precisely; the books will show exactly what it cost.

Q. Are you quite sure, Governor Smith, that that road was operated by yourself and Mr. Clark as individuals, in distinction from the Trust operation of it, down to the point in 1867? A. I am quite sure that whatever its operations were it belonged to the Trust.

Q. Where are the books containing the records of building the road prior to 1871? A. We continued all the transactions on the books of the Company as they were then. They are in Canada.

Q. Are those books in Canada now? A. Well, perhaps they are here. I think Mr. Merrill can tell you more upon that point than I can. Mr. Merrill settled with the accountant at Waterloo; all the operations of the road were done there until we made this arrangement.

Q. Then there have been no returns made prior to 1871? A. No, sir.

Q. Then from 1862 to 1871 that road was operated by the Trust, and of course it will be necessary for the returns to be filed? A. Well, I think the returns may include that time.

Mr. Fifield:—The returns will be made up to include that period.

Q. I understood that the books were not here? A. My impression is that Mr. Merrill brought down all the books and vouchers, and I think they are all here. I think you will find all the vouchers and books from the date we first took possession of the road down to the time of the transfer. Mr. Clark and I never had any personal interest in it.

I find an account here on Ledger F, page 544; the first item is Sept. 1867, to cash, \$250,000, which account is continued—there being a large number of items entered and the same date—and afterwards carried through Ledgers G, H and I, the total amount of the account in Ledger I, as turned over to the new Receivership, is \$475,336 67. I also file a statement made up by Mr. Williams, showing the amount of interest which has been paid upon the Government Bonds in addition to the various amounts charged in this account headed S., S. & C. purchase,

Q. Did the Trust, as such, have any other claims against Mr. Foster that were released at the time of this arrangement other than for the money loaned to him? A. I do not remember any, sir.

Q. What is the total amount of stock of the S., S. & C. road? A. A little over \$500,000.

Q. How much of that stock was purchased from Mr. Foster under this arrangement? A. We hold about \$500,000 of it.

Q. Was that all purchased of Mr. Foster? A. Yes, sir.

Q. To whom was that stock transferred upon the books of the S., S. & C. road? A. It has never yet been transferred on the book. We hold the assignment of the stock here and there is a blank transfer on the back.

Q. By this agreement you purchased also of Mr. Foster the right, title and interest in stock, bonds and other property in the M. & Vt. June. Railway;—please give us the amount included in that purchase. A. That I suppose is in the agreement which I have been looking for. I cannot tell the amount, but it included whatever interest he had. Whilst connected with that road Mr. Foster subscribed for some stock, and sold us a quantity of iron left of the purchase of iron made by his road; also, a lot of ties, chairs, spikes, etc., that is my impression. I do not wish to state that it was so, but I will look up the facts and give you. All this occurred whilst I was Governor of the State, and it is not very impressed distinctly; but I will get all these items.

Q. Do you understand that for these items of iron, ties, spikes, etc., which Mr. Foster furnished that these bonds were given to him? A.

Well, I don't know what it was. I was not there when he transferred to us his interest in the stock and bonds.

Q. You also purchased at that time the right of redemption of the S. & C. bonds belonging to Foster, then held by you as collateral security? A. Yes, sir.

Q. Can you state the amount of those bonds? A. No, sir, I cannot. He gave us some of the bonds at the time of the first loan—no, I think that was for some of the subsequent loans. I cannot give the amount he transferred; there should be some paper stating the amount, but I cannot find it.

Q. You also purchased from him all his rights and claims in and these bonds now in the hands of Mr. Brydges, as agent for certain part in England, and held by them as collateral securities? A. Those bonds are now in the Bank at Montreal, and as long as we pay the interest five per cent.—on a little less than 50 per cent. of the bonds, we have the right to keep the bonds there. If I recollect rightly the amount those bonds is something over \$350,000. Mr. Brydges originally obtained control of those bonds when he was endeavoring to get control of the road. One or two English creditors wanted to come into the same arrangement and have their bonds deposited in the Bank with ours; I think the amount was two or three thousand dollars. They wrote me to know if I would take their bonds on the same basis that we take the others. I said that we would, our object was to get control of the bonds; I do not know of any bonds outstanding now. The same lot of bonds are now in the Bank and the aggregate is perhaps \$156,000.

Q. What were the two notes of \$25,000 each which are said to be mentioned in a certain other agreement between the parties? A. I cannot tell. It is in the agreement I cannot find.

Q. Cannot you tell who they were signed by? A. I suppose they were our individual notes, Mr. Clark's and mine. I presume that in purchasing Mr. Foster's interest in the Montreal & Vermont Junction, we gave him our individual notes, that is how I think it is, but I cannot swear positively that it was so.

Q. Do you owe Mr. Foster anything or does the Trust owe him anything? A. No, sir, we owe him nothing.

Q. I find in Ledger F, under date Jan'y, 1868, a ledger entry to B. Foster \$65,000. I also find a voucher for that entry numbered 1607, dated Nov. 20, 1865, "G. Merrill, Esq., Sup't Vermont Central and Vermont & Canada Road, please pay to the Hon. A. B. Foster \$65,000 on account of bonds of the S., S. & C. Road amounting to 100 bonds for £110 sterling each, and 250 coupons of said bonds detached and 50,000 shares of capital stock of said Company which you will hold as collateral security until the above amount is paid."

Signed,

JOSEPH CLARK,

J. GREGORY SMITH.

[The foregoing voucher offered as evidence by Mr. Walker.] (Exhibit No. 9.)

Q. Has that debt of Joseph Clark and J. G. Smith to the Trust, which the Trust hold these enumerated collaterals, ever been paid to your knowledge? A. It is not a debt of Mr. Clark and Mr. Smith.

sir. That was a loan made by the Trust to Mr. Foster and these bonds were held as collateral security for it—that was the order to Mr. Merrill to loan Mr. Foster the money, and he was to hold the collaterals in his hands until the amount was paid. When we settled with Mr. Foster and took the road that sum was settled and discharged with the others.

Q. The number of this voucher for the loan to Mr. Foster is F, 1607—the number of voucher on which the Trust obtained the \$56,000 on its note to the Northern N. H. Road was No. 1608. Is it not your belief that the \$56,000 was part of the \$65,000 which Mr. Merrill paid to Mr. Foster? A. I do not think it is, my impression is that that loan was made from the Northern Road some time prior to that. I think it was borrowed in 1864, but I am not sure of the exact year. The date of the voucher indicates nothing so far as the receipt of the money is concerned. The two vouchers coming consecutively is a mere coincidence.

Q. Then, as I understand, you on the 29th of Nov., 1865, you drew an order upon the Trust in favor of the Montreal & Vermont Junction Road as a contribution towards building that road, and you also gave an order upon the Treasurer of the Trust in favor of Mr. Foster for \$65,000, and that was in addition to the \$56,000 paid to the Montreal & Vermont Junction Road? A. I think they were two entirely distinct and separate affairs.

Q. Was there any relation between the \$65,000 and the \$50,000 notes referred to in the contract? A. I do not think so, still it may be. It is barely possible that we had to account to Mr. Foster for some of the earnings in taking possession of the road. I have an impression that we accounted to Mr. Foster for the earnings, deducting whatever difference there was in the equipment we put on the line as against the miles run by the engines which we took off his road.

Q. In addition to the \$250,000 and \$65,000, and the former loans made to Mr. Foster you assumed the obligation to pay the sum of \$1000 per year for the expenses of keeping up the organization of the S., S. & C. Road? A. The books will show precisely the purchase. I could not state that we paid that amount in addition. The actual cost of the road appears on the books.

Q. Is it not the fact that down to May 1st, 1866, that road was operated, its debts incurred and so understood by yourself and Mr. Clark and not by the Trust? A. No, sir. I have told you that Mr. Clark and I had not personal interest in it.

Q. I will now call your attention to voucher No. 435, which is signed by yourself and Joseph Clark as Lessees. Can you explain that voucher? A. Yes, sir. It may have been in Mr. Clark's and my name as Lessees as a matter of form, till we could accomplish the final purchase of the road, and that we held it simply in that form. The Trust had the entire benefit of the road—it was designed for them. I am not aware that Mr. Clark or myself ever received any personal benefit from it. We might have incurred this expense in operating the road while we held it, from the time we put our engines on that road until the final arrangement was made.

Q. You turned the road over to the Trust then in May, 1866? Yes, sir, and I presume the amount on this voucher was operating expenses.

[Mr. Walker offers in evidence the voucher in question, No. amount \$28,048 54, dated St. Albans, Mar. 1st, 1869, marked "Ext No. 10."]

Q. I now call your attention to voucher G, 1885, referred to in I ger G, dated Nov. 1868, "To paid A. B. Foster \$5,874 40." This voucher consists of eleven checks of A. B. Foster for various amounts drawn on the Eastern Townships Bank. Can you state the transactions shown by that voucher? A. I think Mr. Merrill will be able to explain that better than I can. I do not remember anything about it, except that we kept our deposits for that road in the Bank mentioned, and he answered Mr. Foster's checks to that amount, and he drew it when he wanted it.

Q. What is the connection of L. C. Lincon on this road? A. I think he is secretary of the corporation at Waterloo.

Q. The provisions of the decree of May 1st, 1867, were provided by the issue of bonds were they not? A. Yes, sir. I think we raised \$444,000 out of \$500,000, so that we have \$56,000 on hand.

Q. How many were sold for cash? A. We did not sell any cash except in compliance with the decree. The Second Mortgage Bond holders were to be paid a certain per centage in cash. That is my recollection of it. I don't think any of those bonds were sold in the market.

Q. The interest I suppose has been paid by the Trust? A. Yes.

Q. And what money was received went into the general Treasury? A. Yes, sir.

Q. Did the Trust realize a reasonable interest upon its expenditures on that road? A. I think it did sir. I don't know the amount of interest but it will appear on the books.

Mr. Walker: The net profits of the road, deducting the expenses from the earnings as reported by the Trustees to the Court in periods of six months are as follows:

By six months ending	June, 1871,	\$ 1,545 66
" " "	Dec., "	277 01
" " "	June, 1872,	1,165 19
" " "	Dec., "	15,923 87
" " "	June, 1873,	864 47

Q. In the operation of this road, Governor, the line of road extending into St. Johns from the Junction of the Montreal & Vermont Junction Road for about two miles was used in common by the two roads was it not? A. Yes, sir, from the Junction to St. Johns.

Q. Did the Montreal & Vermont Junction in any way account for the S., S. & C. Road for the use of those two miles? A. I don't know they did. I presume not. I think there is a paper somewhere showing the arrangement between the S., S. & C. Road and Mr. Clark and myself. If I could find that paper it will show how the matter was arranged. Mr. Clark had most of the management of those details at that time just then being occupied largely with other matters.

Q. Do you suppose Mr. Merrill will know anything about that arrangement? A. I don't know whether he will or not. When the question came up before, Mr. Clark told me there was a statement explaining the whole thing, but I cannot find such papers. I think Mr. Clark must have them. You shall have all the papers we can get before this investigation closes.

Q. Was the S., S. & C. Road completed May 1st, 1866, to Waterloo?

A. Yes, sir.

Q. When was it completed? A. I should think it had been completed a year or two when we took possession of it in 1862.

Q. Who was Mr. R. T. Bailey? A. An engineer that we employed

Q. Voucher No. 4611 consists of a series of bills paid to R. T. Bailey for services as engineer, and expenses to the amount of \$965 77 charged against the S., S. & C. R. R. Where were the services rendered to which this voucher refers? A. I presume upon the extension of the road from Waterloo to the copper mine.

[The voucher referred to, No. 4611, amount \$965 77, filed by Mr. Walker as evidence, marked "Exhibit 11."]

Q. Was that extension of road to the copper mine afterward known as the Waterloo Tram Road? A. Yes, sir.

Q. Is that the same as the Bolton Branch? A. I think it is, there is only one road there.

Mr. Walker:—I find an account on Ledger I, page 148, against the Waterloo Tramroad, the balance of which to the amount of \$68,958 21 in December, 1872, is charged against the S., S. & C. road account, and in the Ledger of the S., S. & C. Co., as kept by the Trust, in an account opened against the Waterloo Tramroad, the total amount thereof down to July 1st, 1873, is shown to be \$75,818 44.

Q. What is the length of the Waterloo Tramroad? A. I think about 12 miles: its termini are the copper mines and Waterloo. It is a road constructed in Canada entirely by the Trust and the route, part of the way, is in the original charter of the S., S. & C. road, and part under a new charter given by the Government of Canada. It may be said to be on the line of the S., S. & C. road all the way, and I suppose the charter of that road probably covers the whole territory; but in order to obtain the subsidy given by the Government for the construction of the road to these mines, it was necessary to build that road under a new charter. A subsidy of 10,000 acres of timber land had been given by the Government to the Mining Company to encourage the building of a road. I think it was the Huntington Mining Co. They sold their mine to some English parties who came over with a large capital to develop the mines. They came to us with a proposition that if we would extend the road they would surrender the subsidy, and give us the business. We decided to build the road.

Q. How often do you run trains over that road? A. The trains are run as they are required; there is no definite time of their running. We have made arrangements, since the road was turned over by the Trustees to the present Receivers, for its extension to the head of Lake Mazog; and parties there have obtained additional subsidies from the Government for that purpose. We expect to go on and build the road

this summer. This property is to be worked into that road at a cost of \$150,000.

Q. Do they branch off this side of Waterloo? A. No, sir; further east than that. They use a large portion of this road that we built, then the plan is to strike out and run to Magog. They will follow the river down to both mines, running past the Ives Mine to the Hunting Mining Co.

Q. You are quite sure that this survey made by Mr. Bailey was for the route through to Magog? A. I think he surveyed through Magog, and I think they raised \$300 towards paying for the survey; paid the bills originally and they subscribed that amount.

Q. What is the name of this Company which is going to run road from Waterloo to Magog? A. It is called the Waterloo Magog Co.

Q. When was this transfer of the mines made to the English party? A. Two or three years ago.

Q. Was it an incorporated Company previous to that time? Yes, sir. I do not know who were the principal owners.

Q. Is it true, Governor, that neither yourself nor your brother, any other parties connected with the Trust, had any interest in any of these mines? A. None of us had a cent in them.

Q. Was there not a purchase of real estate made by the Trust for the Ives Mining Co.? A. No, sir; not to my knowledge.

Q. Who is D. Ross Wood? A. He is one of the Directors of the S., S. & C. road.

Q. I find a couple of vouchers—H, 911, and H, 912, to D. I. Wood, \$500; charged for amount of land damages on the B. Branch. Was that a further expense in connection with the Waterloo Tramroad? A. Yes, sir; but I think that is embraced in the general sum.

Mr. Walker: I put in as evidence voucher No. 1625, dated Monday July 26th, 1871, for \$3,100, land damages in the townships of B. and Magog. Signed by I. Ferrier, Pres't Ives Mining Co. "Exhibit

Q. Is the agreement referred to in this voucher, No. 1625, in writing? A. I think so, but I don't know where it is. When the Government gave those lands they required the expense of surveyors to be paid. I presume this item is for that service.

Q. Who was F. A. Fourdrinier? A. He was clerk to the keeper of the S. S. & C. Road, at the time we took possession of it from Mr. Foster, and we continued him along for a while.

Mr. Walker: On Journal I, page 446, I find this entry: "To S. & C. Ry' Co.—old account—Dr. For amount on those books, before S. & C. books were opened; the same not being entered on S. S. \$36,309 47. For amount paid by F. A. Fourdrinier and not entered on \$9,770 66. For amount paid A. B. Foster, \$4,623 18. For difference between Vt. Central and S., S. & C. accounts—cause of this difference not having been examined, this entry is made to adjust the accounts the time being."

Q. Can you explain that entry, and explain the difference between the earnings and expenses of the road during the time it was open?

two roads; our first arrangement was to let the freight off at Prescott Junc. and let it come down over the Ogdensburg road, but that involved transfer by the ferry between Prescott and Ogdensburg. We built a boat for that transfer, and it was attended with so many inconveniences that Mr. Brydges proposed if we would take the business via Montreal he would make the distance the same to us in division,—that is the same as via Prescott; so that the G. T. R. got a *pro rata* division on less than their actual mileage. The hands on the M. & Vt. Junc. road in Canada are paid in gold; that is, men who live on that side such as Station Agents, etc. Trainmen are paid here.

Q. Do those who are paid in gold get as much in gold as the men on this side get in currency? A. I should presume not, but I cannot give you any details in regard to the pay.

Q. Now, Governor Smith, in making up your division upon the 50 per cent. arrangement do you divide the whole of the gross earnings of the road without any relation to mileage that had been allowed? A. I think the Trustees have one half.

Q. Is not a constructive mileage allowed in favor of the Trust Roads? A. No, sir.

Q. Was there ever any attempt made to secure a mileage? A. It was not done in that way. It was arranged in this manner: The 99 years contract put our road into a *pro rata* division on all its business, local and through.

Q. Cannot you state what the advantage to the Central was? A. We made a demand on the Lower Roads for local tariff rates up to a certain point; we were losing money under that contract. I insisted that they should charge us tariff rate, which they declined to do, but after a long debate they paid to this road as a consideration for waiving that demand ten per cent. on all our receipts, and from the bridge—in consequence of the extraordinary expense of manufacturing that—which we showed them to be equivalent to the maintenance of a given number of miles, they allow us 20c per ton.

Q. And that you lost upon freight that went via Montreal & Vermont Junction? A. Yes, sir.

Q. Who owns the depot at St. Johns? A. The G. T. R.

Q. Who do you pay rent to for your part of the St. Johns depot? A. I presume it is paid to the G. T. R., but I am not certain.

[Court here adjourned until 2 p. m.]

AFTERNOON SESSION—WEDNESDAY, JULY 28.

Court assembled 2 P. M. Mr. Merrill recalled, examined by Mr. Davenport.

Q. Is this paper which I now have a statement of the expenses, earnings, rent and balance of profit of the Sullivan Road from September, 1861 to June 30, 1873. A. It is.

Q. I propose to file this as evidence. [Statement in question put by Mr. Davenport—marked "Exhibit 14."] Will you read that statement to the Masters, Mr. Merrill? A. Yes, sir.

Earnings,	- - - -	\$1,832,116.60
Expenses,	- - - -	1,201,379.35
Balance,	- - - -	630,737.25
Road Rent,	- - - -	239,550.00
Balance,	- - - -	391,187.25

proportion of operating expenses to gross earnings 65.46 per cent.

Q. Will you give the date of entry upon the book showing what Barnard paid the Trust for the iron, chairs, etc., used on the Swanton Branch? A. May 10th, 1865.

Q. Was there any money actually paid by Mr. Barnard to you at that time? A. I do not remember.

Q. It stands to the Road account and by your cash book here, is much cash received from him? A. Yes, sir; I accounted for it as cash. It was equivalent to cash to me in making my account. It is so long ago that I do not remember in what form it was settled.

Q. Was it not included in the item of \$82,000 on the other side of the book the same date? A. Yes, sir; no doubt it was.

Q. Then you did not receive any cash from Barnard? A. No, sir. I probably took a Vermont & Canada order, and I suppose a bill from Mr. Barnard was paid at the time. The order shown yesterday was the one given.

Q. Was that a settlement that was made between Gov. Smith, Mr. C. Smith and Joseph Clark in your presence at which that result was arrived at? A. I do not know whether they were present or not.

Q. Was Mr. Barnard present? A. I think he was.

Q. Then there must have been some one to settle with beside Mr. Barnard. A. I settled for the Road with Mr. Barnard at that time.

Q. As I understand from the book there had been that amount taken from the Trust that went into the construction of the Swanton Branch. A. Yes, sir.

Q. The Swanton Branch was completed the fall before this May 1 mentioned? A. No, sir. I think it was the winter before.

Q. At that time you had a settlement with Mr. Barnard, the contractor, in which that amount was allowed, as a part you think, voucher 9220. Then there was that amount of cash delivered to Joseph Clark and J. G. Smith at that time, but that amount was less the account of Mr. Barnard? A. I presume so.

Q. Have you any remembrance of what took place at the time of that settlement? A. No further than making up the account. I made that up, and I recollect discussing the points in the bid with Mr. Barnard I think—though it may possibly have been his clerk, or agent, Mr. George Linsley, but I think it was Mr. Barnard.

Q. Do you remember whether the Chief Engineer, Mr. D. C. Linsley, was present then? A. I do not think he was.

Q. Do you remember whether either of the agents for construction were present—Clark or Smith? A. I think one or the other was present, perhaps both. I do not recollect precisely.

Q. Do you remember when it was that the Trust first began to borrow money from the banks? A. They did so before I came on the road, and ever after, I should think, more or less.

Q. Is there anything in the books that will show from what banks money was borrowed? A. I think not, for all the time.

Q. How did you manage to keep these matters off from the books, when you borrowed money? A. Took it on a private memorandum. There were not many notes outstanding for the period when I took the money.

Q. Was the Trust in the habit of borrowing money of the Northern Road at any period during your Superintendency? A. They did at some times borrow of it.

Q. When they borrowed of that road did they give their own notes, or were they the individual notes of the Managers? A. I think the notes given whilst I acted as Treasurer were all signed by me and endorsed by the Managers individually. Signed by me as Superintendent.

Q. Now, is there nothing upon the books of the concern, or among the vouchers that will show what monies were borrowed? Did you keep the note and file it away as a voucher? A. I think so; it is, I think, preserved and filed away.

Q. (By Mr. Walker). The distance from St. Albans to St. Johns, by way of Rouse's Point, is 46 miles, is it not, Mr. Merrill? A. Yes, sir, and via the M. & Vt. J'ct. it is not quite 43 miles.

A. In reference to the business of the Sullivan Road. Do you remember what the arrangement was in regard to the Station Agent at Windsor, whether a proportion of his salary was charged to the Sullivan Road? A. Each road paid half; that was the arrangement before the lease and has been since. At Bellows Falls, the expenses of the Ticket Agent were borne by the four roads. The Sullivan Road had its own freight men there.

Q. What did the general expense account of the Sullivan Road include? A. Everything not classified in any other account.

Q. Was the Sullivan Road charged any of proportion of the amount of the general expense account of the Sullivan Road. Can you now tell whether or not the general expense of the Sullivan Road contained any transfer from the general expense account of the Trust? A. I don't think it did.

Q. Were you ever made aware of any agreement in writing or otherwise by which the M. & Vt. J'ct. Road was entitled to have the use of

the S., S. & C. Road from the point of intersection of those roads to S Johns free. A. I do not recollect any.

Q. Mr. Merrill, were you cognizant of any transaction by which the Trustees and Managers invested any part of the Trust funds in the Welden Hotel Co., or St. Albans Hotel Co.? A. I know that they subscribed for some stock.

Q. Is there anything upon the books of the management that will show for how much stock they subscribed? A. I do not think there is. The books will show what stock they paid, but I do not know what amount of stock was subscribed for.

Q. Will you look at the place where you think that is to be found and say how much of the Trust fund was put in to that hotel property in the shape of stock; it appears on Ledger F, page 6? A. \$8,500; that was for the St. Albans Hotel Co. I think that amount was paid in cash.

Q. What was the St. Albans Hotel Co.? A. It was afterwards the Welden House.

Q. Now, Mr. Merrill, did they not put into the Welden Hotel Co. \$20,000 more? A. I don't recollect.

Q. Will you refer to Ledger G, page 455? A. Yes, sir. I see by that entry that \$20,000 was paid to the Welden Hotel Co.

Q. Who paid it? A. I don't know, sir. I presume the Treasurer did.

Q. Were you not Treasurer at that time? A. No, sir.

Q. Then that makes \$28,500 that the Trust has put into the Welden Hotel Co.? A. Yes, sir, I presume so, that is how it appears from the Ledger.

Q. Will you look and see whether it was a loan or whether it was for stock? A. According to the voucher it seems to be for stock. The voucher is for subscription to stock of St. Albans Hotel Co.; on the back is "No. 7,651, \$8,500 00, St. Albans Hotel Co." Then in another place "St. Albans Hotel Stock \$8,500."

Q. I see that it is not approved by you as Sup't, is it? A. Well, it is not properly a voucher, it is merely a memorandum showing for what the charge was made. The certificate of stock I presume would be the voucher. The other voucher is 4,157, Welden Hotel account \$20,000.

Q. Has the Trust ever realized anything to your knowledge for that investment? A. Not to my knowledge.

Q. What became of the St. Albans Hotel Co.? A. It was merged into the Welden Hotel Co.

Q. What became of the stock? A. It was lost or cancelled by mortgage. By the foreclosure of a mortgage I think—I am not sure whether it was that. The stock was extinguished in some way. I know some stock in it and that is how mine went I think.

Q. Do you know whether that was the fate of the Welden Hotel Co. stock? A. I do not, I don't think I had any of that.

Q. Do you know whether the Trust made any other investments in Hotels—in the Mansfield House at Stowe? A. Yes, sir, I think it did.

Q. Do you know how much that investment was? A. No, sir, I do not.

Q. Did they also invest in a hotel at Waterbury? A. I think so, I am not sure.

Q. Will you read from Ledger A, page 430? A. "Mansfield Hotel Co., to cash \$2,000."

Q. Was there not \$1,000 put into that hotel in 1865 also? A. I do not know.

Q. Will you please look at these vouchers, what are they for? A. Voucher No. 7,111 is for \$750 Waterbury Hotel, and Voucher 7,112 is for \$1,000 Mansfield Hotel Co.

Q. Have you any knowledge of any other subscriptions to the stock of hotel companies by the Managers of the Trust, save the St. Albans, Welden, Mansfield and Waterbury? A. I do not remember any.

Q. During the time you were Sup't did the Trust realize anything in the way of dividends from any of these stock subscriptions? A. Not that I know of.

Q. During the time that you were Sup't what relation did Jo D. Hatch of Burlington sustain to the Trust? A. He acted as agent for the road.

Q. What kind of agent? A. In a general capacity. He settled damage claims occasionally, made investigations, &c.

Q. What was his salary? A. I do not recollect now.

Q. Was he carried upon the pay roll? A. I think so. I am not sure.

Q. I see that your salary was paid out of the general expense account. A. It was; so was Mr. Hatch's, I think. His went on the pay roll, I think; mine did not. I did not get my pay monthly; sometimes it went in for six months.

Q. Did he get his monthly? A. I presume he collected it monthly; he could have done so if he chose.

Q. His employment was that of general agent, you say; to settle damages? A. Yes, sir.

Q. Anything else? A. Well, he investigated claims against the road.

Q. Was he largely engaged in the purchase of wood for the road? A. Not at all, I think, sir.

Q. Did he sell wood to the road on his private account? A. I have an idea that in one instance he sold wood to Mr. Babcock, the Wood Agent. I think not much; it was a small contract.

Q. There is a Jed P. Clark, is there not? A. There is.

Q. He is a man of whom you purchased supplies extensively, is he not? such as wood, lumber, etc.? A. Yes, sir.

Q. What was Jed P. Clark's relation to Joseph Clark? A. He was son of Joseph Clark.

Q. Have you any knowledge of any drawback or royalty being allowed to Mr. Jed P. Clark? A. No, sir: I never heard of any.

Q. I show you voucher 7112,—will you please read that aloud? "Received of the Trustees and Managers of the Vt. & C. R. R., by the hand of G. Merrill, Supt., \$1,000; being their subscription to the capital stock of the Mansfield Hotel Co., February 10, 1864. W. H. H. Bingham, for the Treasurer."

Q. Will you now read the letter in connection with that? A. Sir:—

"G. MERRILL, Esq.—Sir:—Above please find receipt for the \$ for which in due time you shall have a certificate of the stock. It is just in the right time, and I thank you for sending it. I made the receipt in the name of the subscription.

Respectfully, your obedient servant,

W. H. H. BINGHAM

Stowe, February 10, 1864."

Q. Will you now read this voucher, No. 7111. A. "Waterbury Hotel Co., Waterbury, Vt., June 11, 1864. Received of the Trustees of the 1st Mortgage Bonds and Managers of the Vt. Central and Canada railroads, \$750; being \$50 per share, and the full settlement on 15 shares of the capital stock Waterbury Hotel Co.,—said sum reserved and set apart for them or their assignees by H. Dewey, Treasurer."

Q. Did the certificates of this stock ever come to you? A. I presume so, sir; I don't recollect.

Q. Are you now satisfied that the one thousand dollars mentioned in this voucher is an additional \$1,000 to the present \$1,000? A. I should think it was additional.

Q. Who was Jno. M. Gliddon? A. He lived at Charlestown. He was employed to purchase wood and ties for the Sullivan road.

Q. Who was he employed by? A. By the Sullivan road.

Q. Was he connected in the purchase of wood and ties with Babcock, the Wood Agent? A. He was employed by the Sullivan road. He was at one time president of the Sullivan road, when the lease was made.

Q. I show you voucher No. 4694, dated June 9th, 1863, for \$1,192 cords of wood. Who paid Mr. Gliddon for that wood? A. The Trustees and Managers.

Q. Was it ever charged over to the Sullivan road anywhere to your knowledge? A. Not in this form.

Q. Did the Trustees and Managers furnish all the wood used on the Sullivan road? A. They did, and paid for all of it.

Q. How did you get at the amount of wood used on the Sullivan road? A. We made an estimate as near as possible of that used on stations and on locomotives, and the Sullivan road was charged its proportion to the miles run.

Q. Would that be a fair way of dividing, Mr. Merrill? A. I think so.

Q. Is not the Sullivan road almost a level road? A. No. There are some grades upon it, but not very high grades.

Q. The trains which passed over the Sullivan road were lighter than they not, than those which passed over the Central road? A. I think they would average less.

Q. In view of that fact would it take more wood or less wood on the Sullivan road? A. It takes less wood where there is a lighter and less grades.

Q. So that in dividing the wood expenses *pro rata* according to the miles run, the Sullivan Road would get the advantage, would it not? A. No, sir, it would be just the other way. If the trains were light and the grades less on the Sullivan Road there would be proportionately less wood used on that road than on the Central. We could only arrive at it by having a man at Windsor to measure the wood used on each road. I think the Central supplied all the wood and charged over to the Sullivan Road for the quantity used on that road, in proportion to the miles run.

Q. Was Joseph Clark in the habit of furnishing shop stock and other materials to the Trust? A. I don't know that he furnished anything but wood.

Q. What is this voucher for? A. One hundred thousand feet of oak logs at \$20 per 1000 feet. I presume they were logs in the rough.

Q. Do you know where they were delivered? A. I think at Milton.

Q. What prices were you paying for wood in 1864 and 1865? A. I don't recollect except by referring to bills. The Wood Agent generally examined the wood, and it was left for him to decide what should be paid.

Q. Who decided what should be paid for the logs as they were bought of Mr. Clark? A. The Master Mechanic. I see on the voucher "charged shop stock," and that would show that the Master Mechanic ordered it. I think Mr. Perkins was master mechanic at that time.

Q. Who appointed the wood agent, Mr. Babcock. A. I think he was appointed by the Trustees and Managers, but his appointment was a long time before I came on the Road.

Q. How did Mr. Jo D. Hatch happen to buy wood and deliver it at Roxbury? A. He owned a wood lot there, I think.

Q. Is that in the midst of a wood country? A. There is a good deal of wood in the neighborhood.

Q. What do you say to four and five dollars per cord for wood? A. I presume the five dollar per cord is for 16-inch wood—probably sawed wood.

Q. Here is one voucher for 300 cords of hard wood delivered at Roxbury at a price of \$1.70 less per cord; can you explain the difference in the prices? A. I cannot explain it. One may have been cut in the summer, which would make a difference. Then again, the quality of the wood would effect the price.

Q. I now show you voucher No. 8014, in connection with Governor Smith's testimony as to getting the charter for the Eastern Vermont Road in order to bring the people to terms in connection with the Sullivan Road. It is dated Nov. 29, 1864, and is for expenses in procuring charter, advertising copies of charter, incidental expenses, etc., amount \$297.65. Received payment, G. Merrill, J. D. Hatch. Was that for the benefit of the Sullivan Road, as you understand it, Mr. Merrill? A. No, sir.

Q. Where was this Eastern Vermont Road? A. On the west side of the Connecticut River from Windsor to Bellows Falls.

Q. Did that bill accrue during the period that Mr. Clark, Mr. Smith and Mr. Brainerd were operating the Road on the opposite side of the river for their own benefit? A. I think it accrued during the period they were operating the Road.

Q. I show you voucher No. 4690, what is that for? A. It is for \$3,628.14, on account signed W. C. Smith, and dated June 1st, 1863.

Q. What is that charged to? A. To the Vermont & Canada Road.

Q. What is voucher No. 4692 for, which I now show you? A. For \$5,250 paid to J. Gregory Smith for services as Agent in the construction of the Burlington Branch.

Q. What account is that charged to? A. It is charged to the Vermont & Canada Railroad—the date is June 9th, 1863.

Q. What is the other voucher for? A. The same amount—\$5,250 paid to Joseph Clark. These are both similar amounts for the same services.

Q. Then the Trust paid to Mr. Clark and Mr. Smith \$10,500 for their services in superintending the construction of the Burlington Branch, and charged that amount to the Vermont & Canada Road? A. I presume that is it.

Q. During the time that this salary was received by them they were also receiving from the Trust a salary for their services as Receivers and Managers, were they not? A. I presume they were, though I think it has not been settled for that time yet.

Q. I now show you voucher No. 7528 and ask you to tell the Master what it is for? A. It is dated St. Albans, Sept. 12, 1864. Vermont Central Road in account with W. C. Smith. To salary as Treasurer January 1st, 1862 to January 1st, 1864, two years, at \$300 per year \$600, with interest added, \$45; total, \$645.

Q. Why did you pay W. C. Smith his salary as Treasurer of the Vermont Central Road out of the funds belonging to this Trust? A. I don't recollect now.

Q. Do you know any reason why the Trust should pay the salaries of officers of the Vermont Central Road? A. I do not know. I am not competent to judge.

Q. What services did W. C. Smith have to perform as Treasurer of the Vt. Central Road, between 1862 and 1864? A. I do not know.

Q. The corporation was hopelessly bankrupt, was it not? A. Yes, sir.

Q. I show you two vouchers, signed E. W. Peck, No.'s 3992 and 6310, and ask you to tell the Masters what these vouchers are for? A. For services of E. W. Peck, as Clerk of Vt. Central Road, for the years ending Feb. 28th, 1863, and Feb. 6th, 1864—two years.

Q. Did you pay those vouchers? A. I presume I did, sir.

Q. Upon whose order did you pay them? A. I do not recollect except one of them is certified as being correct by J. Gregory Smith.

Q. Do you know of any interest which this Trust had which induced it to pay the Clerk of the Vt. Central Road for his services? A. I don't know that I do. I don't know what his duties were.

Q. What is the amount of those vouchers? A. \$310 90 is the amount of both.

Governor Smith re-called. Examined by Mr. Walker.

Q. Did the Trust in 1868 purchase \$50,000 worth of stock of the Northern Transportation Co. of Ohio? A. Yes, sir.

Q. Is that stock still on hand? A. Yes, sir.

Q. Has the Trust derived any profit from it? A. No, sir.

Q. And the stock is now of no value? A. Well, I don't know; I am not prepared to say that.

Q. What is the mortgage upon the property of the Company? A. The mortgage was originally \$400,000, but there has been quite an amount of it paid. There is more than property enough to pay off the mortgage.

Q. Is not the debt \$600,000 with interest? A. No, sir, the interest has been kept down.

Q. What is that Company and what does its property consist of? A. The Company is a line of propellers that was organized to run in connection with this line of railroad, from Ogdensburg to Chicago and other lake points, so as to form a through line of rail and boats from Boston to the West. At the time this stock was subscribed for Mr. Chamberlain, President of the line, was anxious to increase his boats so as to make it a daily line.

Q. It is a line of propellers, then, on the great Lakes? A. Yes, sir. Its office was at Cleveland, Ohio. This road helped furnish the money, with other roads in the line, to increase the number of propellers. They wanted to raise the number from 13 to 22, so as to make a daily line from Ogdensburg, instead of a tri-weekly line.

Q. Did the Trust in 1868 purchase stock in the Mount Washington Railroad to the amount of \$5,000? A. Yes, sir, and paid it in cash.

Q. Have you received any dividend upon that stock,—has the investment proved profitable? A. We have not as yet received any dividend, but they say it has been very profitable, but I believe the profits have gone to enlarging and perfecting the road.

Q. Did the Trust also own stock in the Woodstock Railroad Co. to the amount of \$6,000? A. No, sir. It loaned \$6,000 to the Woodstock R. R. That loan was obtained under circumstances which somewhat surprised us. They were to give endorsed paper by private individuals. I loaned the money under direction of the Trustees. They were under great distress and required the money sent and they were to return the note;—the note came without any endorsement. I sent it back to be endorsed, but before it got back they went into liquidation.

Mr. Walker:—I put into the case the following entry: "Ledger H, page 275—Woodstock Railroad; to cash \$6,000."

Q. Did you ever receive any interest on that amount? A. No, sir.

Q. Did the Trust in June, 1872, sell to the Pullman Palace Car Co. a lot of drawing room and sleeping cars at the price of \$50,000? A. Yes, sir. They took the stock of that Co. in payment of that amount.

Q. What became of that stock? A. It was afterward sold, Gen'l Stark took \$5,000, Mr. Merrill took \$5,000, Mr. Cheney \$10,000, I took \$10,000, Mr. Barnes took \$10,000 and Worthington C. Smith took the other \$10,000. Mr. Pinkerton and the committee stated that they had the impression that stock was at a premium and that we could sell it in

the Boston market. We wanted the money, and we found there was no market for the stock, it had not then been brought in the market. In consultation among ourselves we agreed to take the stock. We were satisfied the stock was safe and we advanced the money for it. The company at that time were indebted to me for monies that were owing me and I took the stock in place of what was owing me.

Q. When you say the stock had no market value do you mean that it was not quoted in the market? A. Yes, sir, that is what I mean.

Q. Had not sales of that stock been made at much above par when you took it? A. Not to my knowledge, sir.

Q. Did you make any efforts to sell that stock? A. I made enquiries about it.

Q. Did you make any efforts to sell it? A. I don't know that I went any further than to enquire the value of the stock.

Q. Do you hold that stock now? A. No, sir, I sold it.

Q. How much did you get for the stock? A. I think I sold it at 101—something like that—it went down afterwards to 95, I think it went up to 104 once, but that is only recollection, I am not sure of that.

Q. Was it a dividend paying stock? A. Yes, sir, it paid a dividend but I don't know now whether 8 or 10 per cent.

Q. Who purchased your stock? A. I don't know who purchased it; I sold it through a broker in Boston.

Q. Can you tell what proportion the assets bore to the amount of the stock of that Co.? A. No, sir, I cannot. I know the Company was perfectly sound, although Mr. Pullman was just then putting out a lot of, I think, a million dollars, and he had prepared a statement to show the capitalists the condition of his Co. I think the stock was a million dollars and he wanted to make a loan of a million.

Q. How much did he estimate his assets at? A. I should think perhaps—well I cannot remember. It was a large per cent. more than the capital, valuing it at his prices. Nobody could tell the worth of the cars at that time. I paid for the stock I bought as much as anybody would have paid for it at that time. I think it was selling at par then. If I remember right I kept the stock a year and a half.

Q. Was that stock purchased in June, 1873? A. That may have been the date the stock was received, but it is possible it was purchased before that date.

Mr. Walker:—I also put in evidence an entry on Ledger I, page 1, showing that in June, 1873, the Pullman Palace Car Company was indebted to the Trust for the sum of \$21,802.38—which amount they are still indebted to the Trust for. Also Ledger I, page 537, by which Messrs. Linsley & Co., appear to be indebted to the Trust \$38,575.66.

Gov. Smith:—With reference to that amount, that was simply a memorandum of monies paid on account of a contract they had to build the wharf at Burlington. That is not yet settled. There was a disagreement in regard to the measurement of the earth. They claimed more than we were willing to allow, and when that question is settled this account will be settled also. At present it stands as an unsettled account.

Mr. Walker:—In Ledger I there is an account headed, "Rent of Leased Roads," which does not appear to be balanced, and in relation to that we would like a statement of the various sums paid as rents of the Leased Roads up to July, 1873.

Statement in question promised to be furnished to counsel. To be marked "Exhibit 18."

Q. I want to ask one or two questions in relation to the Missisquoi Road. In the operation of that road has the 40 per cent. been sufficient to pay the \$85,000 bonds? A. It has not.

Q. Can you state the amount the road was behind at the expiration of the receivership? A. I cannot tell you from memory. I can get it from the books to-morrow.

Q. Your security for the repayment of that money is a second mortgage upon the Road, to become payable in 20 years, is it not? A. Not exactly that.

Q. How was that road contributed—were there any funds expended in its construction except the first mortgage bonds? A. The towns on the road subscribed \$225,000 or \$227,000; the first mortgage was at \$500,000, and the bonds were all sold, and from those amounts the Road was built.

Q. Then nothing connected with the construction of that Road would be a proper charge against the Trust? A. The Trust had a debt against the contractors for material furnished and for the use of machinery, engines and cars. That was settled for and paid in the municipal bonds, but whether the account was exactly balanced or not I don't know.

Q. The question was whether anything expended in the construction of that Road would be a proper charge against the Trust? A. I should consider that in a Road of that importance to this Road, if the Trust advanced money to help build it, it would be quite proper.

Q. Has any money been advanced by the Trust for that Road? A. No, sir; the only advance made was of materials, which we took pay for in town bonds, but I do not remember whether those bonds fully paid for the material advanced or whether a balance was left.

Q. Then you think the Trust advanced no money to assist in building that road? A. Not to my recollection. I do not know of any. I had very little to do with its construction.

Q. What amount of these Town bonds did the Trust reserve? A. I think \$20,000. My impression is that they sold them at the current rate, 80 or 85c.

Q. Who owned the first mortgage bonds at the time they were negotiated? A. When they were issued an arrangement was made with Mr. Stevens, president of the Globe Bank, to take the whole of the bonds and negotiate them in Boston, and he did so.

Q. Who were the contractors for that road? A. G. F. Harris &

Q. Then the bonds were not issued to them? A. Messrs. Harris & Co. agreed to take the bonds and stock and build the road. The bonds were negotiated for Mr. Harris in Boston. The bonds were sent down to Boston altogether and sold by Mr. Stevens, and the money

realized by them lay in his bank—the Globe. Mr. Harris drew from as he wanted the money: some of it was loaned to the Trust here; the bank took their note for the amount.

Q. Can you state who were the Board of Directors at the time loan was made? A. I think I can. Mr. S. P. Carpenter, Richd. Mr. Martin. Montgomery: Mr. Morand, Berkshire: Mr. Woodwo Enosburgh: Mr. Bradley Barlow, St. Albans, Aldis Brainerd, and self, seven in all.

Q. Do you mean to say that the contract to lease the road was executed before the construction of the road was commenced? A. Yes.

Q. Was it confirmed by the Court before the construction of road was commenced? A. Yes, sir: I think it was. That is my impression. The order of the Court is dated Sept. 26th, 1870. Mr. field suggests to me that some of the road was constructed at that time and I think he is right.

Q. Were those mortgage bonds sold at 80c? A. I don't remember exactly what they did sell at.

Q. Was it at less than 80? A. I think it was, sir. My impression is that it was about 75, 76, or 77, somewhere about there.

Q. Did you become owner of any of them? A. I purchased some. I think about \$20,000, and I think Mr. Cheney had some, but I don't know how many. My brother has not purchased any.

Q. What is the grade of that road for the first two miles? A. feet. The road is 28 miles long from St. Albans to Richford.

Q. What was the amount of the 1st mortgage? A. \$500,000.

Q. I notice on page 416 of Ledger I an account with Spencer, & Co., amount \$21,853 92. Can you say anything in reference to entry? A. Mr. Cheney could explain that entry more fully than I am able to. He placed some bonds in the hands of Spencer, Villa & Co. They failed and misappropriated the bonds and went into bankruptcy. We tried to bring Mr. Spencer in as a partner, but we could not succeed in doing so, and unless we can hold him liable that amount is practically a loss as I understand it. I cannot tell what bonds they were. Cheney could tell you, he managed it all.

Q. Is there any written contract of the Addison Road? A. No, sir, there never was a written contract: only verbal, I think.

Q. (By Judge Poland). You charged Spencer Villa with the bonds that were put into their hands to sell. Were they a firm of brokers in good business repute, in Boston? A. So I understand.

Q. There is an old account on the book against the Brandon Manufacturing Co., page 314, of Ledger I; amount \$3118 27. Can you say anything in reference to that entry? A. I did not know it was there. The Treasurer will probably be able to explain it. Mr. Williams told me that for material sold them—old car wheels.

Mr. Walker:—I put in statement of gross earnings, construction account and distribution of gross earnings, Montreal & Vermont Railroad from Jan. 1, 1865, to July 1, 1873, showing that one half the gross earnings, deducting the construction account, to be \$744 21. Statement in question marked "Exhibit 19."

[Court here adjourned until 9 a. m., Thursday, 29th inst.]

THURSDAY, JULY 29th, 1875.

Court assembled at 9 A. M. MR. WILBUR called and sworn.

Examined by Mr. Walker.

Q. Were you Treasurer in July, 1873, and did you have charge of the transfer accounts of the former Receivership to the present Receivership? A. No, sir. I was Treasurer for about two years. I think Mr. Lockwood has charge of them. I think I went out in the fall of 1872.

Q. The set of books comprising the general books of the Trust consist of the Ledger, Journal and Cash Book, do they not? A. Yes, sir.

Q. How many such sets of books were required for the operation of the roads of the Trust? A. From twelve to fifteen; I think fifteen is the full set.

Q. That is, the accounts of each road were referred to their proper book? A. Yes, sir.

Q. A payment for the benefit of the Rutland Road would not appear upon the general cash book of the Trust, would it? A. There is no general cash book of the Trust; there is a cash book for each road. A payment in favor of the Rutland road would be entered in the cash book of that road, and so with all the roads; the books of each road are kept separate and distinct.

Q. Was that true of the M. & Vt. Junc. books? A. Yes, sir.

Q. Does the cash book contain entries of all payments that appear upon the Ledger? A. They did sooner or later. The cash book shows all the money received and paid for all purposes. If we gave a note to a man for his bill that would not appear on the cash book until the note was paid: it would then appear as payment of note; prior to that it would stand on the Journal and Ledger, showing that the note had been issued in payment of a bill.

Q. In what way could you ascertain, when you found payment of the note entered in the cash book, for what purpose the funds were used represented by the note? A. We should have to refer to the entry on the book in which the note was entered first.

Q. Suppose it was a note given for borrowed money? A. In that case it would appear upon the cash book at the time the money was received; it would not go on the Journal first, the first entry would be in the cash book as that of money received.

Q. Supposing that entries appeared on the ledger whereby accounts were settled by exchange of accounts, or by being charged against other accounts, would that appear upon the cash book? A. No, sir; nothing except actual money received or disbursed would appear upon the cash book.

Q. Matters that are charged over to suspense account would not be in the cash book, would they? A. No, sir.

Q. The cash book would show nothing in that subject? A. No, sir. When there was any debt which it was doubtful whether we should collect or not, instead of having it stand open on the books, we carried it to the suspense account. We should not lose sight of any amounts entered, because we should not lose sight of the general suspense account.

Q. In making up your ledger and journal entries, you rely to a great extent upon accounts that are furnished from the departments, do you not? A. We have to rely on them almost entirely, sir.

Q. What departments did you have to rely on? A. Passenger department, freight department, shops, wood agent, Superintendent, &c.

Q. Are there six of these departments? A. Yes, sir.

Q. And that number for each one of the roads? A. Ordinarily so, but it is all done by one department. For instance, the wood agent keeps account of all the wood used on the various roads.

Q. The car shop and shop stock accounts are kept on the separate roads, are they not? A. I think not.

Q. Is not a separate book of that kind kept at Rutland? A. I think not. I think they report to Mr. Foss, at this office, and that office reports to the Treasurer. I think that is how it is arranged.

Q. During the time that you were Treasurer was there an office kept in Boston? A. Yes, sir.

Q. Who was in charge of it and what was the nature of the business done there? A. I was in charge of it, as Treasurer of the Trust, and my business was to take care of the business, pay the coupons on bonds, settle supply bills, that originated in that vicinity, make settlements with the various roads.

Q. Was there a branch office of the Treasurer's office? A. Yes, sir.

Q. Your vouchers were all returned I take it? A. They were sent to the chief clerk here.

Q. Were they carried in to the cash book item by item or in a grand sum? A. I don't think they were charged on the cash account.

Q. The vouchers, therefore, were not numbered in the regular series of vouchers here but were numbered by you? A. They were numbered by me for my convenience and then numbered by the chief clerk here.

Q. Were they brought in with the regular series of vouchers of the ledger? A. I could not say—I think most likely they were, I think that was the way of doing it.

Q. Was Mr. Millis in charge of that Boston office? A. No, sir.

Q. Was it ever managed by anyone but yourself? A. No, sir.

Q. How long since it was discontinued? A. I think it was July 7th, 1874.

Q. Was there any other account besides the account of the Boston office that went into the ledger through the journal? A. No, of outside business.

Q. I take it as to the Boston office, the gross amount of cash that you received for the use of that office would be charged to you in

cash book? A. No, in the journal. I settled bills with notes, and I reported all such transactions to the chief clerk here—they were made in the journal. All my transactions in Boston were entered on the journal none on the cash book, and it would not affect their cash account here. I was treated as a sort of agent as regarded the accounts—they kept a debit and credit account with me, charging me with what I received and giving me credit for what I paid in. I had a monthly account showing all my receipts and disbursements in detail, and in addition to that I gave in a statement of all transactions where I received money from any source in payment of accounts.

Q. Do you remember about how much passed through your hands in the course of the year in that office? A. I cannot say precisely; some hundreds of thousands of dollars. The books will show the exact amount of each year in a moment.

Q. How often were trial balances taken of the books here? A. I think they took them once a month. The books were made up monthly. The accounts were a month behind in being posted. As we received returns from the connecting roads and other sources, they were always necessary a month or so behind; in such an extensive business as railway business, it was impossible to do it at the moment. Trial balances were regularly taken every six months certainly.

Q. When those trial balances were made were they taken on each set of books? A. Yes, sir.

Q. Was there any cash account, as such, kept on the Ledger of any of these sets of books. A. I think not.

Q. From what source in making up your trial balances did you obtain the amount of cash that was on hand? A. From the balance as shown on the cash book, unless it happened to be posted into the Ledger. I forget now whether they posted the cash balance into the Ledger at the end of each month or not. I look upon the cash book as part of the Ledger, some accountants keep the cash book on the Ledger, making it like one book.

Q. In what form did that balance of cash on hand appear in this book—that is in what form did it exist? A. In money on hand in the draw and in the bank.

Q. Did it exist in any extent as paper representing money? A. Sometimes bills would be paid and they would not have time to put them on the cash book, they laid them in the draw and counted as money.

Q. Did it exist ever as evidence of temporary loans in memorandum form? A. Not to my knowledge, it might exist sometimes in the form of drafts after being cashed, which we held in the draw for future adjustment, and not carried into the books.

Q. Can you state in what form the cash on hand existed, as shown by the last trial balance? A. I cannot without reference to the books.

Q. Could you tell by referring to the books? A. Perhaps so; but perhaps not. I could tell with regard to my own cash account, or Col. Thorndike could, if it was the account he kept. I always kept a memorandum book and can state exactly what my cash account was comprised of, and I think Col. Thorndike did the same, he was my assistant.

Q. Who was your chief book-keeper? A. Mr. Ranlett.

Q. Who was Mr. Forbes? A. He was chief clerk of the Trust and kept these books. He had charge of the principal set of books. He is now dead. Mr. Ranlett was in Boston and kept the books there.

Q. I notice on this journal, in which the balances are carried, transfers from one account to another and settlements effected, whereby principal was turned over to the new Receivers. There are quite a number of errors corrected, reverse charges made and cross-entries. Do you remember who had control of the books at that time, and who gave the final directions as to the manner in which these accounts should be kept? A. There was a general consultation about the whole thing. I suppose I am responsible for the entries there. I will endeavor to explain anything on the books that you want explained. A great many reverse entries have to be made, because, in such an extensive business, errors cannot always be avoided, and corrections have, therefore, to be made, and sometimes it is difficult for a person unacquainted with railroad accounts to understand them.

Mr. Walker having finished his examination of Mr. Wilbur, Fifield asked the witness to explain in regard to the charge of \$7,000 paid for damages for accident to a man on Sullivan Road (see Exhibit 1) which it was claimed had not been recharged from the Trust books to the Sullivan Road account. Mr. Wilbur replied: "I paid this amount in Boston and it appears on the books in Boston as charged to the Sullivan Road. I made out a report of the item at the end of the month but I omitted to state on the report that it should be charged to the Sullivan Road. Mr. Coutes, (who was then working in the place of Mr. Forbes—then sick or dead,) being a new man did not refer to the voucher to see what account the amount should be charged to, and I charged it right to the Vermont Central account and not to the Sullivan Road account where it should have been charged. There is no one to blame about that but myself. I am at fault for not giving this new clerk more definite and explicit information than I did. The release was drawn up by Mr. Cheney's attorney; I paid the amount by Mr. Cheney and in Mr. Smith's direction. The amount was charged in my books in Boston to the Sullivan Road, and in sending in my report, the clerk here not being informed about the item, was misled and entered the amount to the wrong account.

Q. (By Mr. Davenport.) Where are those Boston books? A. There here. I looked at the identical entry yesterday, and if you look at the books you will find it as I state, the books are here and also report to the chief clerk.

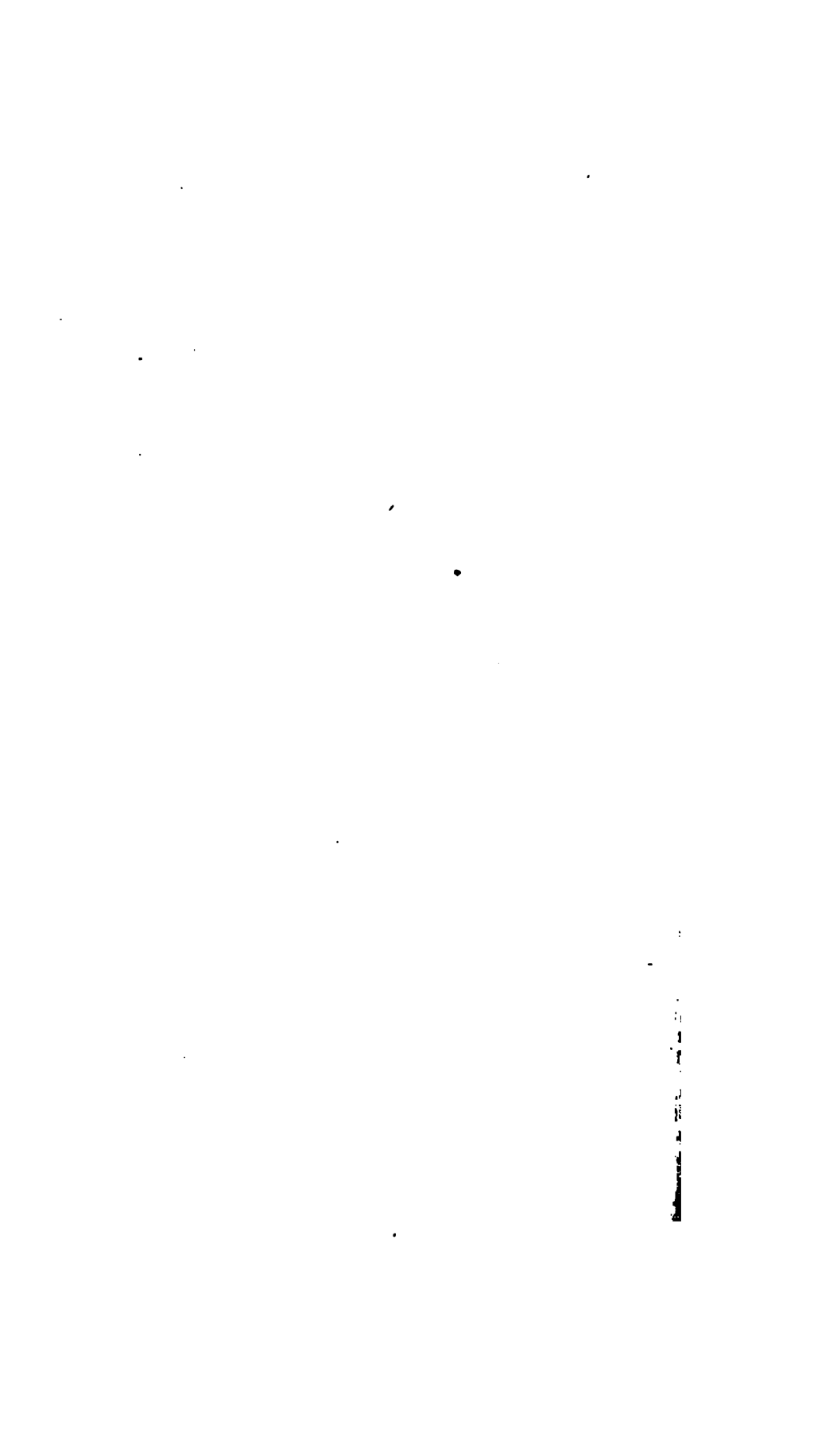
Q. These books will be accessible if we desire to examine them? A. Certainly, sir.

Q. (By Judge Poland.) You say you have examined the books and you have been here? A. Yes, sir. All my accounts were passed through the journal, but this item is on the cash book as cash paid and it should have been entered to the Sullivan Road account here instead of being entered into the account of this road.

Mr. Walker explained to the Masters that that was as far as he had then prepared to go with the examination, and he requested an adjournment for a fortnight. This suggestion was objected to by Judge P.

as after a certain period in August professional engagements would demand the presence of some of the counsel and masters elsewhere and it was advisable to have as little delay as possible. Judge Poland considered that if the court adjourned at all it should only be until Tuesday, Aug. 31. A discussion then arose as to whether counsel should adopt the plan proposed on the first day of the session, viz.: to take the books of the Trust and go through them, taking each item seriatim to find which were objected to. It was considered, however, that this course would occupy a longer time than if an adjournment was taken. After some further discussion it was eventually decided to adjourn until Tuesday, August 3d. Before the final settlement as to the question of adjourning, Hon. F. A. Brooks, being duly sworn, testified as follows: "I have made a compilation from the accounts on file of the Receivers down to June 1st, 1872, for 5½ years, and from the printed reports of the Receivers published. I have also made compilations showing the payments by the Trust; showing the payments by the Receivers during that period on account of Canada debts and interest on the funded debt, and for the purpose of saving time and perhaps abridging and condensing what it might be necessary to go into detail. I have made out a statement which shows as follows: (Statement here read, and put in as evidence, marked Exhibit 20.) This statement shows an increase of the Receivers debt of over two millions of dollars during that time.

I also wish to put in as an exhibit a statement relating to the use of the road, net earnings, etc., for 1872-3, for 13 months. [Statement in question, purporting to refer to the accounts of the road or earnings for 13 months, ending July 1st, 1873, read by Mr. Brooks, and filed as evidence, marked exhibit 21.] "In this statement I find the expenses, deducted from the receipts, include interest which I take to be interest of the floating debt for that time and which I think should be added to the net earnings in favor of the Vt. & Canada. The receipts also include the earnings of the M. & Vt. Junc., as I am informed, and although that is outside property, and not in the State, still it is included in the receipts as these accounts are made up. You are aware from what has been stated in the evidence that the Receivers allowed the owners of that road one half the gross earnings as their share. They have therefore put into this statement only one-half of the gross earnings instead of the whole, and they have charged the entire operating expenses of the M. & Vt. Junc. for the 13 months. They give half the gross earnings to the owners of the road, take the other half themselves, and charge against the half which they take the entire amount of operating expenses. [Court then adjourned until 9 a. m. Tuesday, Aug. 3.]



TUESDAY, AUGUST 3RD, 1875.

Court assembled 9 A. M. The following Exhibits were filed by Mr. Walker :

Lease of the Rutland Road with its leased lines—marked "Exhibit 22."

Lease of the Ogdensburg & Lake Champlain Road—marked "Exhibit 23."

The Northern Transportation Co. contract—marked "Exhibit 24."

Contract with the Missisquoi Road, to be furnished, not yet put in—be marked "Exhibit 25."

Statement of earnings and expenses of the S., S. & C. Road—marked "Exhibit 26."

Statement of postal service of S., S. & C. Road, collected by A. B. Foster; amount \$12,920 64, (say 12,920 64)—marked "Exhibit 27."

Statement of postal service, M. & Vt. Jct. Road, collected by A. Foster; amount \$10,640—marked "Exhibit 28."

Statement of account of S., S. & C. Road, against A. B. Foster, balance July, 1873, being \$39,310—marked "Exhibit 29."

Mr. Smith re-called by Mr. Walker.

Q. Governor, have you found the agreement to which you referred in your testimony, the other day, between yourself and Mr. Foster, by which the S., S. & C. Road was operated prior to the agreement of 1866?

A. I supposed that the agreement you referred to was the one I have given you. I will make further search for the other one.

Q. I understood you to say that there was an agreement showing the various loans that were made to Mr. Foster, and which provided for the running of the S., S. & C. Road, as security for the payment of those loans? A. I think there was such an agreement, and I will look again and see if I can find it. I think there was a memorandum made of that arrangement.

Q. Have you ascertained whether the paper you have filed incl all the advances made to Foster in that connection? A. I have sir; I have not had time.

Q. Can you furnish the amount of the bonds of the S., S. & C. Road that were transferred by Mr. Foster at the time of the agreement in 1866? A. Yes, sir; a memorandum was made of it and put into a box with the bonds, but I don't know whether it is in the box now or not. I will see. [Memorandum produced by Gov. Smith and read.] There are 1119 bonds, £100 sterling each, only they were transferred here, and this does not include those in Montreal. These bonds at par value, reckoning \$5 00 to the pound—\$559,550.

352 coupons, \$17 50, \$6,160; 5,000 shares of stock, \$100 each, \$500,000. In addition to that there are the bonds purchased of English parties, which are now deposited in the Bank at Montreal. They are something \$350,000; I can get the exact sum if you wish.

Q. We should like it given exact? A. After referring, I find I cannot give you the exact figures here; it is something like \$360,000 bonds, in Montreal, par value.

Q. Are there any other outstanding bonds of that Company included in your purchase, or in your right of purchase? A. I know of any. There was about \$3,000 stock left in Foster's hands. I have understood since that there were somewhere about \$2,500 held by the old Montreal & Champlain Road. Still, it has never appeared, and I know of it only by rumor. I supposed Mr. Foster transferred all the stock except the \$3,000 he retained of the outstanding stock.

Q. I notice your statement of the earnings and expenses of S., S. & C. Road includes the years 1859 and 1860, which were prior to Mr. Foster's contract for the operation of that Road by the Company. A. That is an error in making out the statement. I called Mr. C. to attention to it. He started it from the time the Road opened, he had not yet commenced it about 1863 or 1862.

Q. Was there any construction account kept in the books of S., S. & C. Road? A. I never saw the books. I don't think the books show any construction account. I think they were simply ledger books.

Q. How about payments for repairs and improvements? A. I presume they all appear upon the books, but I cannot say for certain. Mr. Lucas, who is now our auditor, went with Mr. Merrill to Washington and closed the accounts up to that time. I think the books were correct in 1865.

Q. Was it not 1870 or 1871? A. I don't know; but when it was, they made a settlement with Mr. Fourdrinier, who was consulted along by us as accountant and he had charge of the books.

Q. Did they bring the books away? A. I don't know; Mr. Lucas will probably be able to tell you what he brought.

Q. I understood you to say that the property in the Montreal & Vermont Junction Road, which was transferred to you by Foster

poraneous with this agreement, stood in the name of Smith and Clark, and consisted of an undivided one-third interest, is that correct? A. I did not say so, sir.

Q. Can you state now what the amount of the stock and bonds and other property of the Montreal & Vermont Junction Road was, that was transferred by Foster? A. The amount of the transfer by Foster to us I cannot give you; parties are at work to see if we get up that account and I will try and give it to you. The accounts which we settled with Mr. Foster for his advances made in the way of iron and other material that I told you of the other day, such as spikes, ties, etc., to the Montreal & Vermont Junction Road, and of course he had that interest in the Montreal & Vermont Junction Road. The advances he made was to be repaid by stock and bonds. When we settled with Foster, we accounted to him for the advances he had made, and it seems it was reduced to \$50,000; whether that was actual or compromise, I cannot tell you now. The notes we gave him for the interest he had in the Montreal & Vermont Junction Road. We settled and paid him, giving him our notes for \$50,000, as appears by the contract, and then instead of simply transferring claim for the iron and material, he transferred to us what that iron and material represented in stock and bonds. You will bear in mind the point that I stated the other day, what we were at work at, was to get the S., S. & C. Road primarily leased to the Montreal & Vermont Junction and then bring the two together in consolidated relation and lease both to the Vermont & Canada Road in pursuance of the agreement made with the Vermont & Canada Road. Of course all the accounts were at first brought into Mr. Clark's and my name as the principal owners and parties at interest in the Montreal & Vermont Road, and the settlement with Foster, after having purchased his Road, was done in Mr. Clark's and my name. We wanted to bring the S., S. & C. Road primarily into the Montreal & Vermont Junction Road because the S., S. & C. could not lease to any Foreign Road but could with any Road in Canada, and the Montreal & Vermont Junction Road, by the terms of its charter, could lease to any connecting Road, either a Foreign Road or otherwise.

Q. Did Mr. Foster, then, have any distinctive proportion in the Montreal & Vermont Junction Road in connection with you and Mr. Clark? A. No further than the advances which he made and for which he was to take pay in the bonds and stock of that Road. It was contemplated that the Vermont & Canada would increase their capital stock and purchase that Road, and then whatever interest each had in the Road, in the way of advances, of course he would receive the equivalent to that amount in stock from the Vermont & Canada if they purchased the Road.

Q. The advances of yourself and Clark were to be paid in the same way? A. Yes, sir.

Q. Was there any way in which his interest in the construction of that road as it was assumed by you different from that of yourself and Mr. Clark? A. Only in relation to the amounts we contributed respectively.

18 has paid Foster his cash & took transfer of his claim for the road.

Q. Can you state why the S., S. & C. Road was not leased to the Montreal & Vt. Junction at the time of the completion of the road as contemplated; that is, why it was purchased by the Trust instead of being leased to the road, which you state was the plan? A. That was simply a matter of form—the leasing of the road. This Trust owned the S., S. & C. Road, and the lease was to be a simple matter of form to comply with a legal technicality, and made no difference whatever.

Q. You thought the result would be the same whether the Montreal & Vt. Junction Road leased the S., S. & C. Road, and then the Vermont & Canada leased the whole concern or whether the Trust invested its money in the purchase of the S., S. & C. Road? A. Yes, sir. The Trust owned the S., S. & C. Road; now then, their object was to get into a legal relation to this road.

Q. I beg your pardon, the Trust did not own the S., S. & C. Road until after the completion of the Montreal & Vermont Junction Road. The contract is dated May, 1866. Why then was not an arrangement made for the lease of the road to the Montreal & Vermont Junction Road, instead of its being purchased by the Trust? A. Because they did not choose to hold the S., S. & C. Road simply in the nature of a leased road—they wanted to own it, and did, absolutely. As I have said, the lease was a mere matter of form to overcome a legal difficulty under the laws of Canada.

Q. You said there was no objection under the laws of Canada for the S., S. & C. Road to lease itself to the Montreal & Vermont Junction Road? A. The S., S. & C. Road had a right to lease itself to any other Canadian Road. The charter of the Montreal & Vermont Junction provided that that road could lease to any other road that connected with it. But the Trust decided to purchase the S., S. & C. Road as soon as it.

Q. Was there any legal objection to the leasing of the S., S. & C. Road by the Montreal & Vermont Junction Road? A. None at all, sir. I am trying to explain to you why it was not done. The Trust, having purchased the S., S. & C. Road, would, when they purchased the Montreal & Vermont Junction, become owners of the whole concern; but then, in order to overcome the legal difficulty in regard to the S., S. & C. Road, that road would be leased to the Montreal & Vermont Junction as a matter of form only. The legal technicality being thus overcome the Trust would then have secured the continuous line and had the double title; that is to say, by owning a majority of the securities of the road, that is of the bonds and stock, they would become the possessors of the road, and also have the legal title to the lease.

Q. You said the plan was to lease the S., S. & C. Road to the Montreal & Vermont Junction and then to lease the two roads as a consolidated concern to the Vermont & Canada Road? A. What I mean was that it was to be put into the form of a lease. The question came up and the Trust decided to own that road. If you will refer to the records of the Vermont & Canada Road you will see the arrangements there for purchasing the road to make it a continuous line through the owning of the S., S. & C. Road. They state it in the preamble to the resolution which authorized the purchase of the road.

Q. There has been constructed since that time, has there not, by Mr. Foster and others, a road called the South Eastern Counties Road, from Farnham to Newport. That road is at present operated by the Assumpsic Road, is it not? A. Yes, sir.

Q. And is in competition with the Vermont Central Line from Montreal to Boston, is it not? A. Yes, sir.

Q. Was not the amount of \$15,000 advanced to Mr. Foster on account of the construction of that road? A. No, sir. They run over 2 miles of our road—of the Chambly Road—from Farnham to St. Johns, and they are indebted to us for their proportion of the traffic over those 2 miles,—or, I think it is 14 miles, and the amounts of their indebtedness should be settled monthly. That \$15,000 was no loan, it was the result of an accumulation of those monthly balances. We should not make a loan to help build an opposition road.

Q. Is it not true that that \$15,000 is composed of business that has been done on credit by the Trust for the purpose of aiding the construction of that S. E. C. Road? A. No, sir; not at all. We had no interest in it whatever.

Q. I shall ask you to furnish a statement in items of that account? A. I don't know but it may be for freight on materials carried over our road for the construction of the S. E. C. Road. If they offered us freight in the way of iron and ties, as common carriers, we could not refuse to take it.

Q. But you could refuse to take it on credit? A. We should, in that case, have had to make an exception of him. We do not usually collect money for freight before transporting it, and I don't think we could legally demand payment beforehand.

Q. Is there any other customer excepting this in which you have opened accounts and to whom you give credit, except Mr. Foster; that is, to whom you deliver freight without the collection of freight charges? A. Yes, we give credit to all the connecting roads, and also to customers. We expected to make our monthly settlements with him. Our large customers run for a month and then settle their freight bills; that is, they have a month's credit.

Q. But, Mr. Foster did not make monthly settlements, or the amount would not have accumulated as it did? A. That was because we could not get the money. He kept putting us off, saying he would settle and we kept delivering him freight. Mr. Foster was treated like any other customer.

Q. What; do you mean to say that you let other accounts run on, without collection, year after year? A. No, sir; not year after year.

Q. Is not Mr. Foster the only party with whom you have done business in that way? A. No, sir; we have unsettled accounts against some of our connecting roads now.

Q. I asked, was he the only individual? A. Well, Mr. Foster did not stand in the light of an individual. We carried the material for the road, and we treated the account as we should any of our connecting roads. For instance, we carried iron, ties, material, &c., for the Wells River Road, and it was a long while before they paid us.

Q. Is it not true that, in the open accounts existing with the Rutland Road and other roads that accounts have been promptly adjusted? A. No, sir. With the Rutland Road, up to the time we took its lease I do not think there was a year, for several years, that they were not largely behind in their monthly balances, some of them running on for year before we could get a settlement with them.

Q. Was there not a large sum about which there was a dispute and on which you split the difference with them? A. That was an old account against the Trustees. I am now speaking about the Rutland corporation. They would perhaps send us five or ten thousand dollars on account, and we had no way of collecting the whole amount unless we severed our relations with them.

Q. You considered that the same method of transacting business as you did with Mr. Foster? A. Well, I considered Mr. Foster as the representative of a Railroad, and I thought him standing on different footing to a merchant.

Q. You also had a separate account with the S., S. & C. Road had you not? A. After the road was built we had. We then had no traffic account with them the same as with other roads.

Q. Were not those two accounts contemporaneous? A. No, sir; the traffic account would not be commenced until after the road was built. The other account was for the transportation of material for the construction of the road.

Q. Have you ascertained whether there was any agreement in writing between the S., S. & C. Road and the Montreal & Vermont Junction Road for the running on the two miles—that is from the junction of the two roads into St. Johns? A. I cannot find that there was. I think I was mistaken in saying I thought there was, but I am now looking as there may have been such an agreement.

Q. Have you obtained, since the last adjournment, the papers, &c. that you said you thought Mr. Clark had? A. I have not, sir. I was there on Friday; I could have but a very few moments with him—was very feeble. I spent all the fore part of the day there, and expected to go down again on the Monday following—that was yesterday—to pursue the investigation further, but I received a telegram on Monday morning saying I need not go, that Mr. Clark understood what I wanted and would attend to it. He will endeavor to get what papers he can.

Q. Voucher G, 1885, which is now produced, consists of a set of checks of Mr. Foster which appear to have been charged to the S., S. & C. Road amounting in all to \$5,874 40. Will you please look at them in connection with the account furnished of the S., S. & C. Road against Mr. Foster, and state whether or not they are included in that account or if they are additional? A. I cannot tell you whether they are in this statement or not. I don't see the first check for \$269 28. I do not know whether they go in these various months from May to November. They may have been charged in with the month's items, in which case they would not appear in this form. I cannot tell, it is a matter which the book keeper can explain. Mr. Merrill can give you more information upon the matter than I can. These items may have been charged together for each month and included in the monthly statement with

was made. But whatever they were they have accrued prior to the agreement of May, 1866, and were all discharged thereby. I think they were all included in that settlement. I never saw them before so I cannot tell you. The account rendered by Mr. Merrill was the account I settled with Mr. Foster by, and I do not know what is included in it.

Mr. Worthington C. Smith called and sworn; examined by Mr. WALKER.

Q. Mr. Smith, your attention was called the other day to a voucher from Journal I, No. 1625, being for a payment through you for lands in the townships of Bolton and Magog, the titles of which were to be transferred by the Ives Mining Company to the Trustees, subject to conditions as per agreement. Will you please give us some explanation in regard to that matter? A. Do you mean as to why the money was paid?

Q. Yes, sir. A. The amount shown upon this voucher \$3,133.50, seems to be the amount charged by Government for the survey, before the lands were ceded. There were 10,000 acres of land. The amount, I think, was paid by the Ives Mining Company in obtaining their title, and they were to vote their title to us on receipt of their expenses. I think it was the survey charge.

Q. I also call your attention to voucher 1590, cash book I, for \$3,223.20, charged against Waterloo Tram-road. What is your explanation of that? A. The voucher seems to be for \$3,223.20; it was for money I drew. I gave my receipt for \$3,200 on account of the Bolton Lands, which I paid for under this arrangement, to the Ives Mining Company. The other amount—that is the balance—is for some small items rendered by D. Ross Wood, who was the secretary or treasurer, or both, of the Huntingdon Mining Company, for some small amounts in settlement of some land damages as I understand it, and for some small expenses incurred at the Registration office.

Q. Do I understand you that the main charge of \$3,200 is for the same thing? A. Yes, sir. There never was but one payment made. I drew the money on my check for the purpose of settling the account with them and the money was charged to me on the Ledger, and the other entry is the credit to me.

Q. From the books, it seemed to me to be charged as two separate payments. I don't know that it is so? A. I can perhaps explain better by reference to the books. I drew the money for the purpose of making that payment for which you now hold the receipt. The money was at the time charged directly to me on the Ledger—that is, to my private account, and afterwards credited to me when I rendered a voucher for the payment.

Q. There are two separate vouchers and two separate entries, and it would seem to be two different entries? A. One is the receipt of the money by me and the other is the account for it.

[Examination of Governor Smith resumed by Mr. Walker.]

Q. There is an item of \$727 charged originally against the Eastern Vermont Railroad, which is finally transferred to suspense account. Can

you state the origin of that account, and where and what that Railroad was? A. That was the Road for which we obtained the charter, from Windsor to Bellows Falls on the Vermont side. I think that amount was for the survey of that Road, but I don't know, I have not seen the voucher.

Q. (By Judge Poland.) You expended some money there, did you not? A. Yes, sir, we did; and I presume the amount was for surveying for that Road. I cannot say until I see the voucher.

[Voucher sent for.]

Mr. Walker:—I desire to put in evidence three vouchers when they are found. One is half rent of Montreal & Vermont Junction for six months, to J. G. Smith, up to December, 1871. The next is for a further six months made out in the same way as the first; and the other is a similar voucher for amount to Joseph Clark for six months rent. I call attention to these for the purpose of showing the form in which the receipts were made up, and—

Q. Of asking, Governor Smith, for an explanation for the division of these receipts for rent into Canada currency and American currency? A. The local fares on the Road in Canada, and local freight business were received in Canadian currency, and they divided with us in kind. This they kept separate. For all through traffic they accounted to us in American currency. The division of expenses was made in the same manner. The expenses paid in repairing and maintaining the Road, when in Canada currency were divided in Canada currency and shown separately on the book. Our proportion of expenses were charged to us each six months; they were made up by Mr. Merrill and they were charged for each month and deducted from our account. If there happened to be a washout, they would charge it to us, and so on.

Q. I understand that some of the charges were made in Canadian currency and some in American currency and the accounts kept separately? A. Yes, sir.

Q. At what rate was interest paid on money loaned to the road? A. I cannot tell.

Q. Was it not your custom to take interest at 8 per cent on monies loaned to the road? A. Sometimes at seven, sometimes eight, according to circumstances. Whatever interest was computed was without any directions from me. I was allowed sometimes seven, sometimes eight per cent., but I was always allowed just what others were more.

Q. Has it not been eight per cent. for the latter part of the time? A. I don't remember, I presume so. I know they allowed Mr. C. Mr. Cheney and myself just what they would allow anyone else.

Q. I now refer to voucher 233, cash book I, Spencer, Villa & Co. cash to interest account \$1,500. The voucher is as follows: "Paid for interest on bonds sold by B. P. Cheney. Jan 26th." With this memorandum: "W. B. Stevens, \$1,500. End paid by Mr. Williams and is for commission on bonds sold by Tracy to Washburn Iron Co. Was it right to pay this to S., V. & Co.?—Mr. Cheney. Mr. Cheney says it is right. Charge interest on bonds

H. B. W., Treasurer." Have you any recollection of that transaction?
A. No, sir. I never saw the voucher before. Mr. Cheney can explain it.

Q. Do you know whether a bill of the Washburn Iron Co. against you was paid in bonds? A. Not exactly in that form. I know that Mr. Gill came to me here and subscribed to a large amount of equipment bonds, but whether at the time we were owing him for re-rolling iron I cannot say. I know he took some of the bonds; I think about fifty or sixty—perhaps seventy thousand dollars.

Q. They were applied upon the account, were they not? A. I do not know whether we owed them anything or not. I only arranged for the sale of the bonds to him. The arrangement for the sale of the bonds by Spencer, Villa & Co. was made by Mr. Cheney; he was entirely responsible for that transaction.

Q. And he made the arrangement for the payment of the commission and it was paid under his direction? A. I presume so, sir. I never saw the voucher before. The time Spencer, Villa & Co. failed was the first time I heard of it.

Q. Did you ever know or hear that Mr. Cheney had a joint interest in Spencer, Villa & Co.'s concern? A. No, sir, I did not.

Q. I refer to one of the Wilbur vouchers, No. 914, an amount of \$1,145 94, charged to general expense account. The voucher reads as follows: "Boston, Nov. 5, 1872, received of H. B. Wilbur, Treasurer, \$1,145 94 for one half of loss on joint account with Spencer, Villa & Co. in selling Vt. Canada stock and sustaining the market to do so, B. P. Cheney." Have you any recollection of that transaction? A. Never heard of it before, sir, to my knowledge.

Q. The voucher in reference to the Eastern Vermont Railroad is now produced, No. 4,695, D. C. Linsley, \$720. Can you state what the payments referred to in this voucher were for? A. I think they were amounts expended in the survey of that road.

Q. Then they are payments for expenses in connection with the road which was never built, but which was projected on the western side of the river, and which road was to enable you to obtain the lease of the Sullivan Road, as you testified, is that it? A. Yes, sir.

Examination of same witness continued by Mr. DAVENPORT.

Q. Governor Smith, what connection did you have as Trustee, Receiver, or otherwise, with the construction or attempted construction of a railroad from South Vernon to Brattleboro, in the Fall of 1870? A. Not any, sir. I had no connection with it whatever. I never knew of a dollar being paid to it.

Q. I understand Mr. Waite claimed that you should make him some advances? A. He claimed that we ought to, but we did not.

Q. And there are no charges to the Trust for monies expended in the attempted construction of that road? A. No, sir, never any to my knowledge.

Q. And there should be none made to it? A. No, sir, not at all.

Q. Then, if there is any liability on your part it is a personal liability and not a liability as Receiver? A. No, sir, I don't admit any

liability at all, either personal or in my capacity as Receiver. Whatever Mr. Waite claims in reference to that matter, if he establishes any liability, it is a liability against the Trust, that is, if the Trust had no right to afford the protection and assistance which that line sought from the Vt. Central R. R. I never contributed a dollar to that road. Mr. Waite claimed that the Trust should contribute, but I denied his claim.

Q. Governor, at the time you commenced this Receivership, or at the time these accounts commenced, who were the counsel for the Trust not your personal counsel, but counsel for the Trust? A. I never had any personal counsel, except what belonged to the Trust. In 1851 Lucius B. Peck was counsel, and I think Andrew Tracey, Mr. Underwood, and I cannot tell who else. The road was fearfully involved in litigation and had a great multiplicity of suits. At times hearings were going on in different counties at the same time, and we necessarily had quite a large counsel. I don't remember all the names. These three were our principal counsel.

Q. After the litigation which finally resulted in that decision reported in 34th Vermont, who then were the counsel; that is after you got through with these controversies in whose charge were the legal affairs of the Trust left? A. It remained with the same counsel I had named until Mr. Peck was elected President of the Vermont & Canada road. He then resigned his position as counsel on the ground that the new interest he had assumed might come into conflict with the Trust and he did not wish to find himself embarrassed at all. Then Mr. Tracey and Mr. Underwood were our leading counsel, but as occasion required we obtained counsel elsewhere. I think Mr. Edmunds acted as our counsel at some part of the time. Mr. Field, of Brattleboro, was once our counsel.

Q. In what department of your business was he engaged? Mr. Field was once retained by us, if I remember rightly, to look after some outside matters, but I cannot tell now precisely the specific nature of his services.

Q. Did Mr. Field ever appear for you in any court in the State of Vermont? A. That I cannot tell you. It seems to me that he did but I am not sure.

Q. Was not his appearance as a lobbyist before the legislature was not that the only employment he ever had from you? A. I do not know that we ever had any lobbyist. He was before the legislature several times, once during the great bridge fight, and in the great contest of 1859.

Q. If I understand you rightly Mr. Underwood, Mr. Tracey, Mr. Peck and his partner, Colby, were your counsel and the one's that the Trust relied upon? A. Yes, sir.

Q. Did you pay those men a yearly retainer out of the Trust fund and then pay them in addition for the services they performed? A. I think Mr. Underwood had a salary and he was paid in addition to his expenses—travelling expenses. His services were covered, I think by his salary. He was more frequently in consultation with us than Mr. Peck or Mr. Tracey. I think Peck and Tracey were paid for their services as they rendered them.

Q. What was Mr. Underwood's salary? A. \$2,000.

Q. Were there any other salaried attorneys with the exception of Governor Underwood, at that time? A. I don't remember, Mr. Davnport. I cannot tell without reference to the books.

Q. Do you remember whether Judge Poland, after he left the bench, was employed by you? A. That was a great many years after the time you are talking of. You are coming down to another period. I think the first time Judge Poland was retained was—well, I don't remember when he was first engaged, but it was a long time after he left the Bench.

Q. Since that time has he been kept in the employ of the Trust? A. Well, more or less, he has.

Q. Has he been paid a yearly salary? A. He has had \$500 per year for what time he was retained, but I do not think it has been continuous.

Q. How about Judge Isaac F. Redfield, from the time he left the Bench? A. He has never been retained by us; we have had a great many opinions of him since he went to Boston, and he has charged us specifically for what services he has rendered.

Q. You have not paid him a salary or retainer? A. He may have received a salary for a part of the time. I am not sure.

Q. How about Timothy P. Redfield? A. I don't remember that he was ever retained by us. We paid the bill when he was retained by the bondholders. He brought in a bill which was allowed and we paid it. I do not think he ever received a retainer from us; I don't recollect that he did.

Q. How about Senator Edmunds; for how long a period has he been in the employ of the Trust? A. Mr. Edmunds considered himself always retained for us in matters that did not conflict with other and prior engagements, but I do not think he ever had any salary. He charged for what services he rendered.

Q. He has not charged for a yearly salary or retainer, to your knowledge? A. I don't recollect any, sir.

Q. And has not been authorized to make any such charge to your knowledge? A. Well, I cannot recollect now what the understanding with him was. The books will show if there has been such a charge.

Q. How about Gov. John W. Stewart? A. He had a retainer for us I think in 1872. He was retained for us to help in getting the charter for the Central Vermont and in other matters then at the time of our troubles.

Q. But not before that time? A. I don't recollect that he was retained before that time—perhaps he was but I am not sure. He may have been before the Legislature in some way; I rather think he was, but I am not confident.

Q. Whether you have had Mr. B. B. Smalley in your employ as attorney? A. He was retained for us at the time when we were in the quarrel with the Rutland Road.

Q. Was he employed as attorney? A. His specific employment was for duties outside an attorney's duties.

Q. Well, what kind of duties was he employed to perform? We got him to assist us to look after our interest at the time of the competition with the Rutland Road.

Q. Was he clerk of the Circuit Court at that time? A. I do not know.

Q. What did you say you employed him to do? A. To look after our matters in Burlington. We were having a bitter contest between the Steamboat Co., the Rutland Road and ourselves.

Q. What interest did you employ him to look after? A. We had no business interest there. I cannot tell you what he did particularly.

Q. Did he do anything, except to draw a salary? A. I should think he did, sir. I think he did as much as any agent of that kind would do.

Q. Agent of what kind? A. Well, I stated to you—to look after our business interest in Burlington.

Q. Can you not tell us what business interest he was looking after? A. I have told you; we were in high fight there bidding for passengers and freight. I don't know who suggested that we should employ him, whether it was Mr. Appleton or not, but we did employ him.

Q. Was he employed as attorney, freight agent, passenger agent or general agent? A. I don't know; the vouchers will show.

Q. Did he have any connection with the Montreal agency;—did he have an agency in Montreal, at that time, had you not? A. I do not know whether he had any connection with the Montreal agency. I presume he was often there on business. I don't know that he had any connection with that office nominally, any further than to be in and out of Montreal, looking after our matters,—looking after the passenger and freight business, making suggestions to us—doing whatever he could for our interest.

Q. You really think he did those duties, Governor? A. Yes, I think he did, and I think he was pretty active.

Q. Did he practice law at that time? A. I think not, sir. I don't know whether he did or not.

Q. Do you think he was clerk of a United States Court at that time?

Mr. Fifield: What time do you mean, what years are you talking about?

Mr. Davenport: Well, at the time of this competition mentioned by Gov. Smith. several years, but we will say 1862 or 1863.

A. I don't know whether he was clerk of any court then or not. My impression is that he was only employed about a year. I think we paid him \$1,000 per year—I am not sure that that was the sum, whatever it is the books will show.

Q. You had in your employ at that time Mr. Jo D. Hatch, did you not—he was at Burlington, was he not? A. He was in our employ, but he was at Windsor.

Q. Was he not residing at Burlington during 1861-2-3? A. I should hardly think he was. I don't know the time he came to Burlington. He was first employed by us at Windsor, but he afterwards came to Burlington.

Q. Was he employed by the Trust at Burlington at the same time that Mr. Smalley was employed? A. Mr. Hatch has been all the time in our employ from the first time we employed him.

Q. But, do you remember whether he was located at Burlington during the same time you were employing Mr. Smalley? A. I do not know.

Q. What salary did Mr. Hatch receive? A. I don't know the amount. It has varied from \$500 up to one thousand or two thousand.

Q. What were Mr. Hatch's duties after he went to Burlington? A. I could not define all his duties. He acted generally for us whenever we had any commissions for him to do.

Q. Well, a sort of general agent? A. Yes, sir, his duties were general.

Q. Did he have anything to do with the passenger and freight departments? A. He looked after our outside interest and business matters.

Q. Well, what outside business matters? A. I cannot answer such a question, sir. His work was general. He was before the Legislature; he was about whenever we wanted him; he undertook commissions;—he was a very apt man and we found him very useful, always at hand to undertake any commission we had for him to do.

Q. What were his duties before the Legislature, you say he was employed before the Legislature? A. Well, he was there to look after our interests.

Q. To look after our interests in what way? A. I cannot give you any more explanation than I have said, generally. Oftentimes there were applications for moderation of our tariff bills. At one time a bill was brought in by the people of Montpelier to reform the tariffs, and it was necessary to have some one there to watch the interests of the road and keep us advised of what was going on, and Mr. Hatch was there to keep us so advised. When bills were brought affecting us, he was sent there to look after our interests generally. Sometimes we had a contest with the Rutland road for a parallel charter from Burlington, north. In that and several other similar cases it was necessary for us to protect our interest. There were always questions before the Legislature by which our interests would be more or less affected. It was not always for our interest to oppose these measures, but it was to our interest to see that the Legislature was advised fully of the situation, and of all the facts so as to be able to legislate understandingly. If they wanted to regulate our tariffs it was important for them to have all the facts before them; and in such cases Mr. Hatch was employed. He would keep watch of the bill and when the committee were ready for hearing he notified me and I went before the committee; they would then debate what course was best to be taken for the public interest. In all such matters Mr. Hatch was employed by us as general agent. Then we frequently had cases of claims for personal injury and Mr. Hatch was a very useful man investigate such matters,—a great many of them were fraudulent and required a good deal of care to sift out all the particulars of such cases. Mr. Hatch would investigate them thoroughly and report to us. His cases were varied, as the circumstances which called for his action.

We regarded him as a very competent and capable man in any undertaking we had for him and he was used for every variety of purposes connected with the interest of the road.

Q. With reference to his duties before the Legislature, is it all summed up in the statement that he was employed to see that there was no adverse legislation to your interest and to aid in procuring such legislation as was proper to serve the interest of the Trust? A. No, sir. I did not make any statement in that form; I have not used any such language. He was there to protect the interests of the Trust and keep us advised of what was going on. We had no desire to defeat adverse legislation, if it was right and proper to be enacted, but we did desire to protect ourselves, which we could not do without a fair representation of the matter to the Legislature.

Q. Have you been in the habit of having Mr. Hatch go to Montpelier at the beginning of each session of the Legislature and remain there to the close? A. Yes, sir, he was generally there for that time.

Q. Did you give him authority to employ such counsel as he deemed advisable? A. No, sir; I don't think he ever employed any counsel without he first advised with us.

Q. Did you authorize him to distribute free passes as he deemed it proper to distribute them? A. No, sir, not at all. Sometimes we had to send for witnesses, to get them before the Legislature, and I occasionally left with Mr. Hatch a few passes—perhaps half a dozen—so that he might send and get what witnesses were requisite. If we had not given passes to such witnesses we should have had to pay their fares afterwards. To such extent Mr. Hatch had passes, but no further.

Mr. Worthington C. Smith called and examined by Mr. DAVENPORT.

Q. How long have you been one of the Receivers of this Trust? A. Since the Summer of 1870, I think; in June or July.

Q. Previous to that time what official relation did you occupy to the Vt. Central Railroad? A. I was at one time Clerk and Treasurer of the Vermont Central.

Q. From what time to what time did you occupy that position? A. I cannot give you the dates without reference to the record. It was while I was Treasurer of the Vt. & Canada. I was appointed Treasurer of the Vt. Central about the same time because the stock of the Vt. & Canada had to be countersigned by the Treasurer of both Companies, and as a matter of convenience the Vt. Central made me Treasurer of their Company for that period.

Q. Was it as far back as 1860 that you were appointed Clerk and Treasurer? A. I think it was.

Q. And down to what time, according to your recollection, did you hold the position of Treasurer? A. I think until I was made President of the Vt. & Canada. I think I held the office the whole time until then.

Q. Can you state about when you became President of the Vt. & Canada? A. I think in January, 1867; it was succeeding Mr. Peck's death.

Q. Then from about 1860 to 1867 you held the position of Treasurer to the Vt. Central road? A. Yes, sir. I cannot say if I did the whole time I did a portion of the time.

Q. Did you receive a salary for your services? A. I think I received for a portion of the time \$300 per year.

Q. Did you have a larger sum than that during any portion of the time? A. Not from that Company, as I remember it.

Q. During all the time from 1860 down to the time you were appointed Receiver, were you not a member of the Board of Directors of the Vt. Central R. R.? A. I cannot give you the year I was appointed, but I was up to 1870 from the time of my appointment.

Q. Was not your appointment as Director as far back as the time when you became Treasurer? A. No, sir; that is a mistake.

Q. Then you never was Director of the Vt. Central? A. No, sir: I never was a Director of that Road.

Q. Then according to your recollection the only official relation which you held to the Vt. Central was its Treasurer? A. Yes, sir.

Q. Were you not during that period a Trustee of one of the mortgages? A. I was for a portion of the time, of the second mortgage.

Q. At what time did you become a Trustee of the second mortgage? A. I should have to refer to the deed for the date, I don't remember. I was appointed without my knowledge at the time. The deed will show the date.

Q. What deed do you mean? A. The Mortgage Deed. Upon reference to the deed I find I accepted the office the 21st of January, 1864.

Q. Did you receive any salary from the Trust or from any other source as compensation for your services as Trustee of the second mortgage bondholders? A. Never a cent from any source.

Q. Did you ever charge anything for it? A. No, sir. I believe I have several items of expenses on my book but I have never received anything.

Q. When did you become, if at all, a Trustee of the first mortgage? A. I think that was at the time I came into the management.

Q. And you have held that office since? A. Yes, sir.

Q. Now will you look at the first mortgage and see when you became one of the Trustees of that mortgage? A. 20th of July, 1870, I accepted that office.

Q. And you have held that official relation ever since? A. Yes, sir.

Q. Now you may state, if you please, what your official relation has been to the Vermont & Canada Road down to 1873. A. I was for any years, I don't remember the first year, a Director and Treasurer and Clerk to the Vermont & Canada. In January, 1867, I was made resident, and retained that office until the fall of 1872, I think.

Q. Whether you were either President, Director or Treasurer all the period from 1861 until 1872, according to your recollection? A. I was from the time of my appointment. I don't remember year; I shall have to refer to the record to ascertain that.

Q. Whether you received any compensation for your services as President of the Vermont & Canada Road? A. I did, sir. My impression is that it was \$1,000 per year.

Q. Whether you received any compensation for your services as director? A. No, sir.

Q. What compensation, if any, did you receive for your service as Treasurer of the Vermont & Canada? A. I think it was \$1,000 per year, and for a year or two I think they made it \$1,200; but the record of that Company will show the amounts.

Q. Were you during that time clerk of that corporation? A. Yes, sir.

Q. Was the thousand dollars per year and then twelve hundred dollars for both your services as Clerk and Treasurer? A. Yes, sir, that compensation covered for both.

[Adjournment until 2 p. m.]

TUESDAY, AUG. 3—AFTERNOON SESSION.

Court assembled at 2 p. m. Examination of W. C. Smith, continues.

Q. When did you become one of the owners of what is now the St. Albans Foundry Company? A. I think it was in 1846.

Q. What interest have you had in the real estate of that Company since that time? A. Since 1850 I have had a half interest in the real estate.

Q. When did your brother, John Gregory Smith, become interested in the real estate of that Company as owner? A. I cannot tell whether it was in 1851 or 1852. It was a short time after I commenced alone.

Q. It was after 1850? A. I think it was.

Q. And before this Trust commenced? A. Yes, sir.

Q. What interest had your brother in the real estate, fixtures or personal property connected with that Foundry? A. He had a half interest with me.

Q. Whether you and he were not in partnership? A. Yes, sir, we were as far as that is concerned.

Q. Whether you have both continued to own that property joint owners ever since? A. Yes, sir. It was not the St. Albans Foundry Company at that time—there was no Company then.

Q. When were the buildings standing opposite here erected? A. I think the Foundry building proper was built in 1850 and the other parts have been built several times since. They have been destroyed by fire and re-built again at different dates.

Q. Has there ever been any dissolution of partnership between you and your brother, J. Gregory Smith? A. Yes, sir.

Q. How was that dissolution announced to the public? A. The business was never done in the name of the firm; it was always done in my name. Upon my brother's appointment as Trustee, he sold and purchased this interest in all but the real estate.

Q. His interest in the tools and personal property on hand? A. Yes, sir.

Q. And his interest in the contracts? A. Yes, sir.

Q. How much did you pay him for his interest? A. I think it was \$3,000, but I think the paper will show the exact amount.

Q. Was that paid in money? A. No, sir.

Q. How was it paid? A. It was to be paid in settlement of account.

Q. Have you ever settled your account? A. Not fully.

Q. Have you ever had any settlement at all? A. We have had various settlements, but never settled the whole.

Q. Have you had any settlement of the business matters connected with the St. Albans Foundry Co.? A. No, sir.

Q. Has there been any accounting on the one hand or the other between you for the rents and profits of the concern? A. No, sir, no further than by understanding. He was to have his share of the rents.

Q. Where are the books upon which were entered your and your brother's partnership dealings connected with the St. Albans Foundry Co. previous to 1858? A. The books that I kept of the Foundry are all in the vault, there, I suppose.

Q. The books which I enquire about are the books showing your and your brother's partnership dealings previous to 1858, in connection with this St. Albans Foundry Co.? A. I don't know what you mean by partnership dealings.

Q. You say you were partners up to 1858, although the business was conducted in your name? A. Yes, sir.

Q. And he was to receive one-half of the profits and bear one-half of the losses? A. Yes, sir.

Q. Well, now, you had books upon which you entered your partnership transactions before 1858, had you not? A. They were the books belonging to the Foundry Co.

Q. Had you books upon which you charged to yourself what you drew out of the concern? A. Yes, sir.

Q. Had you books upon which your brother charged what he drew out of it? A. Certainly; they would appear upon the general ledger.

Q. And also what was put in by one and the other? A. Yes, sir.

Q. Where are those books now? A. I presume they are in the vault, over at the Foundry.

Q. Will you produce those books,—that is, the books containing your partnership transactions? A. I can bring the Foundry books here, if it is important. They run through several ledgers. I have no objections to producing them if it is considered necessary by the Masters.

Q. Where are the books upon which have been entered the sums which you have received from the Receivers and Managers of this Trust for carwheels and castings? A. They are partly on the Foundry book which I kept, but principally on the books of the present Foundry Company.

Q. Down to what time do they appear on the books which you kept? A. I don't remember, sir. I should think up to 1862 or 1863.

Q. Have you in your possession the book or books which contained those entries? A. There is the same set of Foundry books, that is all.

Q. Are those entries to be found upon the same books upon which you and your brother kept your partnership matters before he was appointed Receiver? A. They are the same general books of the Foundry.

Q. The same ledger? A. Well, the same series of ledgers—there are several.

Q. Now, since the time that you and your brother gave up the concern to General Stannard and Edward A. Smith where have the accounts for carwheels and castings been kept? A. I have just stated that up to 1863 my impression is that I made the entries myself on the Foundry book of the material furnished to the Railroad.

Q. I understand, that when Stannard and Smith took the concern there was an agreement? A. Yes, sir.

Q. And that agreement is signed by Stannard and Smith on one hand and by you and John Gregory Smith on the other? A. I think it is.

Q. Don't you know whether it is or not? A. I think the agreements I retained were signed by Mr. Edward A. Smith and General Stannard, and those that they retained were signed by my brother and myself. The agreements were in duplicates.

Q. Is the agreement which is printed in the report of the Investigation Committee the duplicate which you and your brother, or which you had? A. It is a correct copy of the contract.

Q. But that has only the signatures of Smith & Stannard, while the counterpart of it in the possession of Smith & Stannard has your signature and your brothers? A. Yes, sir.

Q. Who drew up that contract? A. My impression is I drew

Q. Did your brother read it over before signing it? A. I do not tell you, I don't remember—I have no doubt he did.

Q. It has been said by Judge Poland that the reason why your brother signed that agreement was because he was half owner in real estate: was that the only reason? A. Yes, sir.

[Mr. Davenport here read the agreement in question, from the printed report of the Investigating Committee, page 25 of Appendix which agreement was signed by Stannard and Ed. A. Smith.] It was put in by Mr. Davenport and marked "Exhibit No. 30."

Q. Was there any price fixed at the time that you sold out leased to Stannard and Smith at which they should manufacture wheels and castings for the road? A. None at all.

Q. Was that all left for future adjustment? A. Yes, sir.

Q. But no matter what the price might be you were entitled the same specific as mentioned in the agreement? A. Yes, sir.

Q. Were the notes that were specified in the contract given Stannard & Smith ever paid? A. They did not give any notes; they agreed to make certain payments for the balances of stock on hand, it was not in the form of notes.

Q. They never did give any notes? A. No, sir.

Q. Did they pay the installment notes called for? A. Not at the time.

Q. Did they ultimately pay them? A. Yes, sir; but there has always been a balance due more or less.

Q. Now, Mr. Smith, with regard to the car wheels and castings delivered to the railroad, that is the Trust, who has received pay for those goods from the Railroad? A. I think I collected the bills two or three years myself; since that time it has been done in their name. As near as I can recollect it was about 1863 or 1864.

Q. Then you have not had charge of collecting those bills since 1863 or 1864? A. Not since that time.

Q. Who made the contract with the railroad at the time that you had the bills made in your name and made the collections from the railroad? A. It was made in 1854 by Mr. W. R. Lee, with my brother and myself, and this contract was in force when he entered the receivership in 1858, he then sold to me his interest in that contract and this is his assignment. [Statement in question read by Mr. W. C. Smith.] Mr. Lee suggested the desirability and importance to the road of having their casting furnished here, and asked me if I was willing to enter into a contract. At the same time he introduced the subject of the construction of a car factory and proposed that if we would go on and organize a company and build a car factory that he would enter into a permanent contract for the construction and repairs of cars. Growing out of this interview and his suggestion this contract was made, and the basis of it is, as you will see, that we were to keep on hand so much material, and enlarge the place. This was done, the building was constructed, and equipment tools, &c., were furnished for that purpose. In 1858 when my brother went into the receivership he said he had not better retain any interest in the contract; we talked the matter over and came to the agreement as shown on this assignment note.

[The note in question being the assignment by Gov. Smith of his interest in the contract, &c., to his brother, Mr. W. C. Smith; was filed by Mr. Davenport and marked "Exhibit 31."]

Mr. W. C. Smith:—The contract, as you will observe, had about a year to run by its limitation, and that amount, \$3,000, was considered by myself and my brother to be a fair settlement of his interest in the contract. When the lease was made to Stannard & Smith, my brother had an unsettled and undetermined interest in the property and amounts on hand at the time. My brother only sold me his interest in that contract, and the other interest which he had with me in the joint business had not been adjusted, consequently, he had an interest in that balance which is stated there as due and which was in point of fact due to him and myself, and that was another reason why he was a party to that contract.

Q. Has your brother still that unsettled unadjusted interest? A. I have already said we have had no final settlement. He has had various things from the Foundry which have been charged to him in the account and stand against whatever interest he may have in that account.

Q. Has he not had various sums of money out of the Foundry establishment? A. I don't think he ever drew any cash at all.

Q. Has he drawn any cash from you for which you have taken accountable receipt? A. No, sir; I don't remember any cash about. From the date of that sale he has never had any interest in the contract for the road or anything furnished to the road and has never received any.

Q. That contract expired in 1859? A. Yes, sir.

Q. And there has never been any written contract made since? A. No, sir, not a regular written contract. Mr. Newton, one of the members of the Foundry Co., had a written memorandum or arrangement with Mr. Taylor while he was in, but I never had it; it was in the name of the Foundry Co.

Q. When the contract expired by its own limitation you continued to furnish car wheels and castings? A. Yes, sir.

Q. And continued to deliver bills once a month for them? Yes, sir.

Q. And to receive pay upon those bills? A. Yes, sir.

Q. Now, with whom was the agreement made to extend that contract, or was it kept on by mutual consent? A. I don't think the question was ever raised at all; they kept ordering and we continued to furnish.

Q. Was there anything ever said between you and your brother after he became Receiver, with reference to the price you should pay for those goods? A. Yes, sir; I had a conversation with him in regard to the matter and he declined to express any opinion. I also had a conversation with Joseph Clark, at one time, somewhat subsequent to that, I don't know the year.

Q. When was the first time you mentioned the matter to Joseph Clark? A. I don't remember.

Q. Did you ever speak to him about it but once? A. I don't know whether I did or not.

Q. What did he say about it when you spoke to him? A. He said that was a matter for Mr. Perkins and Mr. Taylor to settle and was just.

Q. Did you make any adjustment with Mr. Clark as to the price you should charge? A. No, sir! I don't think I did.

Q. Did you ever make any arrangement with any person authorized to represent this Receivership as to the price you should charge for Trust for carwheels and castings? A. I had several conversations with Mr. Perkins who was Master Mechanic.

Q. You spoke to your brother, John Gregory, and he declined to say anything about the matter? A. I spoke to him once when he was Perkins and I had a discussion about prices, but my brother declined to interfere.

Q. You spoke to Mr. Clark and he referred you to the Master Mechanic? A. Yes, sir.

Q. Did you ever speak to Mr. Cheney? A. I did not, sir.

Q. Did you have any conversation with Lawrence Brainard about the matter? A. Yes, sir! I have talked to Mr. Brainard about it, but I cannot tell what the result was.

Q. Did you ever agree with him as to price? A. Never. He said he preferred that some one else should make the price.

Q. Have you ever settled upon any price with anybody authorized to represent this Trust? A. I don't know whether I have or not. The bills have been settled.

Q. You have fixed the prices yourself then? A. No, sir.

Q. Who has fixed them then? A. Mr. Perkins fixed most of the prices.

Q. Did you ever have any disagreement with Mr. Perkins about prices? A. I had a good many discussions with him, and he sent off several times to obtain information from other Roads as to prices.

Q. Did you ever have any discussions with him as to the quality of your goods? A. Yes, sir.

Q. Whether he ever refused to use your wheels or passenger coaches? A. Yes, sir.

Q. He objected to them and insisted upon buying wheels elsewhere? A. Yes, sir.

Q. Told you he could not use those wheels whilst he was responsible for the lives of the passengers who went over the road? A. He never told me that.

Q. Do you remember Mr. Perkins complaining about the wheels you furnished and saying that oftentimes they would do no more than perform the journey to Montreal and back? A. No, sir.

Q. But you have had frequent discussions with him about the quality of the wheels you furnished? A. Yes, sir.

Q. And also about the price of the wheels? A. Well, occasionally, not frequently, perhaps once a year or thereabouts.

Q. Now you continued furnishing these car wheels and castings after you became receiver, did you not? A. The Foundry Co. did—I did not.

Q. Well, the same relationship existed, did it not? A. They continued to pay me what was due to me.

Q. Did Newton, Smith or Stannard ever have anything to do with making the price? A. I presume they have, sir.

Q. Were you ever present when they had any discussion with your brother or Mr. Clark or Mr. Brainerd with reference to prices—or with Messrs. Cheney or Taylor? A. I don't remember that I was ever present. I talked to Mr. Taylor myself about it but not in their presence.

Q. Who do you understand had the right or duty on the part of the Foundry Co. or on your part, to settle the price to be paid by the Trust for the car wheels and castings you furnished? A. At what time do you refer?

Q. At any time between 1858 and the time when you became Receiver? A. I suppose I had a perfect right.

Q. Did you not take upon yourself that right? A. I have already said that up to 1863, I think it was, I did, but after that time I did not.

Q. Didn't you from 1863 until you were appointed Receiver fix prices? A. No, sir.

Q. You don't know who fixed the prices at that time? A. No, sir; except as Mr. Taylor told me.

Q. Mr. Taylor was not in this Trust a great while, was he? A. I don't know how long, perhaps three or four years.

Q. You understood that he had something to say about fixing prices? A. I understood he had.

Q. And he established the prices for wheels and castings? A. Yes, sir; he gave the Master Mechanic instructions in regard to it.

Q. Now, Mr. Smith, have you prepared or caused to be prepared a statement of the number of car wheels and the prices for each quality or size and the number and pounds of castings which were furnished to this Trust in 1858 down to the time when your Receivership closed? A. I have had prepared by the Foundry Co. a statement of all the castings and wheels furnished since 1861, which was what I understood you to require.

Q. Does that statement give the number of each kind of wheel whether 30, 33 or 38? A. You may call them all 33-wheels, if you like. I am willing for them all to be called 33-wheels. There was subsequent modification—I don't remember what it was—with the Foundry Co., by which the amount I was to receive was reduced, but I don't remember what the modification was.

Q. (By Judge Poland). A modification between you and the Lessees of the Foundry? A. Yes, sir.

Q. That may become important in this investigation. Can you tell by any means you have in your power when you made that change? A. I will endeavor to ascertain.

Q. Have you instituted any comparison between this account and the printed statement contained in the last report? A. I have not. The statement I have given you was furnished to me by the book-keeper of the Foundry Co., from their books.

Q. Do you know whether this is more or less than the other? A. I don't know, sir.

Q. Where were the figures obtained that were brought before the Legislative Committee from the same source as this statement came from? A. I think Mr. Merrill furnished that one from the books in his office here; that is my recollection.

Q. Well, the vouchers in the office should correspond with the statement, should they not? A. Yes, sir.

Q. I understood you to say that search was being made for all bills. A. Yes, sir, you will have them.

Q. And they will show the prices paid from time to time? A. Yes, sir, and also the number and every particular.

Q. Can you tell how much more was charged, if anything, to the railroad for castings by Stannard & Smith than was charged for mowing machine and reaper castings? A. I cannot remember, because I do not know what the prices were at different times. I think generally the railroad castings were not as high as mower castings.

Q. They should not be so high, should they? A. Well, it would depend upon the character of the castings.

Q. Well, generally railway castings are not as high as castings for mowing and reaping machines, are they? A. Not generally, except the railway castings should be for locomotives, in which case they would cost more.

Q. Were the prices fixed upon in that contract for reaping and mowing machine castings remunerative to the manufacturers? A. I have never asked them.

Q. Do you know whether the business of the St. Albans Foundry Co. has been profitable or otherwise to its managers? A. I never asked them.

Q. Well, suppose you did not ask them, don't you know? A. I suppose it has been profitable to them or they would not continue the business, which they have done.

Q. And they are men of reputed wealth, are they not—that is, Smith and Newton? A. I don't know what their repute is.

Q. They started in the business poor men, did they not? A. No, sir; Mr. Newton had property.

Q. When did you first begin to receive any part of the profits derived from the Sullivan Lease? A. I cannot tell; it was after I became receiver, probably the next year, but the books will show the exact time.

Q. Have you not had a share of the profits of that lease from and after the time that you became Receiver? A. I have received a certain amount that will be shown upon the books.

Q. Did not your right to receive a portion of the profits begin when you were first appointed Receiver? A. I am not aware that there is any "right" about it.

Q. Is not that the time you began to receive a share of the profits of that Road? A. I don't know. I told you frankly, I don't know when it began, all I know is that I had it.

Q. How came you by what you had? A. My brother and Mr. Clark gave it to me.

Q. What did they give it to you for? A. I don't know. I suppose they thought I was a good fellow—that is the only reason I can think of.

Q. Did they give it to you as a donation? A. I don't know.

Q. Did you ever claim any part of the profits of that Road? A. No, sir.

Q. You never thought you were entitled to it, did you? A. Well, I thought it was not objectionable to take it if I could get it. I did not consider myself entitled to it. I had no legal right to it.

Q. Then it was only your brother's and Mr. Clark's generosity that gave you any of it? A. I suppose so, sir.

Q. Now, what portion of the Sullivan Road receipts have you had since you became Receiver? A. I cannot tell you whether it was seven or ten thousand dollars. I think one or the other. I shall have to refer to the books for the exact amount.

Q. Do you mean seven or ten thousand dollars per annum? A. No, sir! in all.

Q. That is the total amount you have received all through? A. Yes, sir.

Q. You feel quite certain that it won't exceed \$10,000? A. I can tell by looking at the book; that is my opinion—seven or ten thousand dollars.

Q. Well, you may not be able to pay it all back perhaps, but it is worth seeing how much the amount is that you have received. I suppose you refer—

[Mr. W. C. Smith refers to books.]

A. I find I have received \$7,000 and I find also charged to me the Sullivan books an amount which has not been allotted to me.

Q. Is that money which you have drawn out of the earnings the Sullivan Road? A. Yes, sir; and I am debited with the amount which is \$13,000.

Q. How did you happen to get that \$13,000? A. I drew it.

Q. Did you draw it because you had any right to it or because you wanted it? A. Because I wanted it, I suppose.

Q. Do you mean you drew it out of the earnings or out of the profits—that is, the profits after the expenses of operating, and the rents were paid? A. I cannot tell you that because I don't know how the account will be settled up. It was monies belonging to the Sullivan Road on the Sullivan books. My recollection is that I spoke to my brother about drawing the money; it is not an amount that has been awarded to me; but it stands to my debit.

Q. Did you own any part of the stock that came from the Pullman Car Co. in consideration of the sale of some sleeping cars to that Co.? A. I did, sir.

Q. What was the value—the agreed value—of the cars sold to the Pullman Company? A. The amount of the sale was \$50,000.

Q. How much was that less than the price which your Master Mechanic and others to whom it was left, appraised the property? I don't know that they ever made an appraisal of the property.

Q. Who was it fixed the price of the cars sold to the Pullman Co.? A. It was by agreement between the parties.

Q. Were the cars ever inspected to your knowledge by any man conversant with the cost of that kind of property? A. I suppose my brother took the principal part in the negotiation, and I presume informed himself as to the condition and value of the property. I know that I thought myself, from my knowledge of the condition of the cars that it was a very good sale; that was my judgment about it.

Q. How much of the stock did you receive? A. \$10,000.

Q. What did you do with that stock? A. Well, I believe I put it in the safe.

Q. Do you still hold it? A. I do.

Q. What dividend has that stock paid, Mr. Smith, since you became owner of it? A. I think it has paid part of the time ten per cent., part of the time twelve per cent., per annum.

Q. What part of the time did it pay 12 per cent.? A. My impression was that it paid 10 in 1872, or the year following the panic.

Q. Has there only been one year since you became owner of that stock that it has not paid 12 per cent.? A. I think it is not more than that time.

Q. Has that stock any market value at this time? A. I think it has; I occasionally see it quoted.

Q. What do you see it quoted at? A. 94 and 96.

Q. How much of that stock fell to the share of Joseph Clark? A. I don't know, sir, at this moment whether he took five thousand or ten thousand, or whether he still retains the stock he took.

Q. Mr. Smith, whether at any time before you were appointed Receiver, you run a line of sleeping cars over this road? A. No, sir; I never did.

Q. Were you ever interested in a line of sleeping cars, save as you were interested in the management of the Trust? A. No, sir. I think I was appointed as the medium or agent through which the collections for sleeping berths, and I passed the money over to the road. It was thought desirable that the road should not ostensibly own the cars or receive receipts for berths and consequently they requested me to take the charge of the concern. The conductors sent in their reports to me, and I made all the disbursements.

Q. When was it that you so acted as agent? A. I don't remember the year.

Q. Was that in the beginning of the running of sleeping cars over the road? A. It was in the early history of the work, but whether the very beginning I don't remember.

Q. And all the interest you had in that matter was a mere agent? A. Yes, sir, agent of the road and managers.

Q. (By Judge Poland.) Did these sleeping cars belong to the road? A. Yes, sir; they were built here at the company's shops—except the first two, they were built at Troy.

Q. Do you think the first two were put on by Wagner, and then the Trust bought him out? A. I should think so, but I am not sure.

Q. You had to do with the management of that line of sleeping cars? A. I had the direction of it. The conductors' reports were made to me.

Q. What did you do with the money received for berths? A. I passed it over to Mr. Merrill; he was Treasurer at that time.

Q. What was the purpose of your being selected as the person to receive the money derived from the sale of sleeping berths? A. Well, as I understood it, the road thought it would be better not to have the cars run in their own name, because there were so many of the employees of the road who had general passes that would claim the right to a sleeping car berth, by virtue of their passes.

Q. And that was the reason why the business was put into your name and under your control? A. Yes, sir.

Q. Did you make any profits out of that business? A. I think they paid me four or five dollars a month—a small sum which did not amount to anything.

Q. Did you not receive some share of the profits of that sleeping car business? A. No, sir, not a dollar.

Q. Were you accountable for any losses? A. There were no losses about it that I know of. It was simply a receipt of money on one hand and returning balances.

Q. There was no loss that accrued to you which had to be made up by the Trust? A. I don't remember any.

Q. And you never received any money that you remember of? A. No more than the small compensation I have just mentioned.

Q. Did not you at some time sell a sleeping-car or cars to this Trust and take pay for them? A. No, sir.

Q. You never owned them? No, sir.

Q. And if there is any such transaction on the books it is a fictitious one? A. Well, I don't remember anything of the sort. I don't know what you refer to.

Q. You feel quite sure you never owned any sleeping-cars, never sold any to the Trust, and never received pay for them? A. I don't recollect anything of the sort now. I never owned any such cars.

Q. Did you ever receive any salary from this Trust as book-keeper? A. I received pay for the short time that I came here, which I did while the book-keeper was disabled, and I wrote for some time.

Q. I suppose it was only an isolated occasion when the book-keeper was disabled? That is all, sir.

Q. Do you remember more than one instance of that sort? A. No, sir; I do not.

Q. You were Treasurer of the Vt. & Canada Road at the time the Burlington Branch and Swanton Branch were being constructed? A. I think I was, sir.

Q. And you gave such orders upon Mr. Merrill or upon the Trust funds, as Mr. Clark and your brother, as agents for those construction called upon you to give? A. Yes, sir.

Q. Had you any control or supervision, or power in the matter except to answer their orders? A. Not at all, sir.

Q. Did you keep any account of the orders which you drew for the agents of constructions of those branches? A. I think I did.

Q. On the Vt. & Canada books? I think so.

Q. Whether any vouchers were furnished to you as Treasurer of the Vermont & Canada showing the disbursements of money by the construction agents? A. I have no recollection of it.

Q. Did you have in your possession while clerk and treasurer of the Vermont & Canada any vouchers showing what was done with the money which you delivered Clark and your brother during the construction of the Burlington Branch or the Swanton Branch? My impression is that Mr. D. C. Linsley, who had charge of the work, made reports to the Vermont & Canada Boards as to amounts expended. I don't know whether detailed accounts were furnished. I think they rendered from time to time a general statement of the amounts expended.

Q. Do you remember Mr. D. C. Linsley, previous to January 1, 1855 rendered a general statement of the amount the Swanton branch had cost up to that time? A. I cannot fix it at that date. I think at some time Mr. Linsley made such a report, but I don't know when.

. Do you remember whether that report of Mr. Linsley's was accompanied by a statement of your brother's that Mr. Linsley's report contained the cost of the iron, which was yet to be adjusted by agreement between the Trust and Vt. & Canada? A. No, sir, I do not remember about it. I think there was a statement made near the completion of the work as to the general amount expended, but I don't recollect anything more about it now.

Q. Did you ever have anything to do with the purchase of a patent for the "Atwood patent." A. I made an arrangement whilst running business with Mr. Atwood, manufacturer of the wheel of that name, which we could manufacture his wheel.

Q. Did you pay him anything for that privilege, and if so how much? A. Yes, sir, I paid him, I think, 25 cents or 50 cents per

Q. How many of that kind of wheel did you construct? A. They made all of that kind after I commenced manufacturing them.

Q. Did the Trust pay Mr. Atwood royalty? A. I never knew they did.

Q. Should they have paid any part of it? A. I don't know that they should. I don't think they did. After I bought it of Mr. Atwood I had a right to manufacture the wheel, of course.

Merrill re-called by Mr. Davenport.

Q. I find some vouchers extending over a period of about two years signed by B. B. Smalley, charged on the books to the Montreal agency. The receipts purport to be for services rendered by him as passenger agent, and some of the bills I notice were approved by you. Will you tell the masters what services to your knowledge were performed by B. B. Smalley as passenger agent in connection with the Montreal agency? A. I don't recall now. It has quite passed from my mind. I know he performed some services and received a salary, but I forget now what precise character of it was.

Q. Had you any knowledge of his performing any services except for his salary? A. I think he did, but I am not sure.

Q. Can you tell by inspecting the vouchers? A. I do not know, perhaps I can.

Q. Voucher 643 is approved by you; perhaps you can tell us something about it? A. I don't recollect. It might have gone into the Montreal agency. The business of that agency was not all performed there.

Q. Have you any knowledge, Mr. Merrill, of any services which B. B. Smalley performed as passenger agent. A. I have no recollection of what his services were.

Q. You know the man, I presume? A. I do, sir.

Q. There are vouchers of the same character as this at the end of the month, or sometimes at the end of two months, reading in this manner: "Trustees of the Second Mortgage Bondholders," etc., "to B. B. Smalley, Dr. To my services as passenger agent during the month of January 1861, \$83.33. Received payment. B. B. Smalley."

MR. DAVENPORT.

To all charges on the books of this nature we desire to object. They extend over a period of two years, these money payments to Smalley.

Q. You can give no light on the subject then, Mr. Merrill. A. I cannot, sir.

Q. I show you voucher 1594. Did you approve of that bill, Mr. Merrill? A. I did sir. What is it for? Will you read it, please.

Q. It is dated June 1, 1862. "Receivers and Managers of Vt. Central and Vt. & Canada R. R. Bought of W. C. Smith, two sleeping cars, \$3,526.60. Received payment as above. W. C. Smith. Approved, G. Merrill, Supt. Charged to shop stock." Did you pay the money upon that voucher to Mr. Smith? A. I think so.

Q. Was that amount of money paid out of the Trust funds to Mr. Smith? A. I think so, sir.

Q. Will you look at the paper I show you, which is No. 1450. What is the amount of that voucher? A. \$1086 75.

Q. Well, now, tell us what it is, please? A. November 1st, 1861. Amount of guarantee on sleeping-car stock to May, less amount received by sale of berths.

Q. Well, now, this is the amount of loss which accrued on the sleeping-car contract with W. C. Smith during the period covered by that voucher? A. It is, sir.

Q. Had you any knowledge of that sleeping-car arrangement? A. Yes, sir.

Q. Will you tell the Masters what there is of it, according to your knowledge? A. If I recollect correctly, at the time night trains were put on the road, for a little while, we had passenger cars rigged up as sleeping-cars, with some preparation for making berths on the seats, but after a little while Mr. Wagner made a contract with the road, by which he furnished cars. The road guaranteed him, I think, a certain amount of earnings upon them. He would not put them on without. At that time I think Mr. Smith bought him out, and after a still further lapse of time I think the road bought the cars and run them themselves.

Q. Now, as you understand the matter in the first instance, Mr. Wagner put sleeping cars on the road and was guaranteed a certain amount, to be paid him? A. That is my recollection.

Q. Then, afterwards Mr. W. C. Smith bought Wagner out, and finally the road made some bargain with W. C. Smith? A. I think he took the contract, as it stood, of Mr. Wagner.

Q. And you think the paper I have last shown you is a statement of the deficiencies there were under that contract for that time? A. If I recollect rightly, it is so.

Q. And then afterwards Mr. Smith sold the sleeping-cars and took pay for them? A. Yes, sir. The putting on of sleeping-cars was quite an experiment.

Q. I notice in another voucher, dated July 8th, 1861, a charge of \$8 00 for labor, putting up towel racks in sleeping-cars? A. That for repairs done upon the sleeping-cars.

Q Well, does that confirm you or otherwise in your recollection as to the character of this transaction? A. I think it does. It is merely my impression that he owned the cars. I may be mistaken in my statement, but that is my recollection.

Q. Have you any knowledge of investment of the Trust funds in the Woodstock Railroad? A. I know some money was loaned to it, but I don't recollect the circumstances.

Q. Did you have anything to do with that loan? A. I don't know, I am sure.

Q. Did the money pass through your hands? A. I think not. I think it was after I ceased to handle the money.

Q. You have no knowledge or recollection of any loan during the time you had charge as Superintendent? A. I don't know of any. I may be mistaken, because I don't recollect the date.

Q. Have you any knowledge, Mr. Merrill, of \$8,500, or any other sum, that was put into the St. Albans Hotel Co.? A. I saw the voucher the other day.

Q. Do you know, Mr. Merrill, whether that voucher was to cover a subscription which W. C. Smith and J. G. Smith had made individually to that Company? A. No, sir, I do not.

Q. Did you ever have any knowledge of their being any subscription made in the name of the Trustees, except the one of \$20,000? A. I think so—I think the \$20,000 was later.

Q. You think the \$8,500 was not a subscription made by the Smiths as individuals, and afterwards when it turned out to be a poor investment paid out of the Trust funds? A. I don't know but they made subscriptions in their own names. I think the railroad took interest in the hotel when it was first started.

Q. Did you take any interest in the hotel personally? A. I did.

Q. Did you know of John G. Smith and W. C. Smith taking any interest in either of those hotels, except as representatives of the Trust? A. I think they did.

Q. In which one? A. In the first and I don't know but in the second, too.

Q. Where are the books pertaining to that corporation? A. I don't know anything about them. I paid in my subscription and got receipts, but I never got anything back.

Q. I show you voucher E, 4,250, for \$750, receipted May 4, 1863, for services as book-keeper, 9 months. Did you pay that bill? A. I think I did. Mr. W. C. Smith acted as book-keeper after Mr. Barrett left: he left suddenly, being sick. I think Mr. Barrett had \$2,500 per year. Mr. Smith only charged at the rate of \$1,000 per year.

[Voucher objected to by Mr. Davenport.]

Q. Voucher 3,790, dated Jan. 1st, 1862, two years services as Treasurer V. C. R., \$300 per year, \$600; signed by Levi Underwood, *Pres't. pro tem.* Did you pay that? A. I think I did, sir.

Q. Another voucher bearing the same date, No. 3,789. This is for two years salary, as the other, and for services and expenses as Director, together with interest, total \$850 45, signed by Levi Under-

Q. I show you voucher 1022; what is that? A. For E. W. Peck's salary as clerk two years—1859 to 1861—\$200; and expenses at Boston, etc., \$27.35—\$227.35.

Q. Vouchers 1022, 1930, and 3992; what are they? A. The are all similar to the other; for Peck's services etc., as clerk.

Mr. Davenport:—I object to all such sums represented in vouchers as salary to Peck for services as clerk V. C. R. R.

Q. Mr. Merrill; I show you vouchers 1788 and 886; tell me you please what they are. A. Subscription to Agricultural Fair at White River Junction, \$250, and subscription to Connecticut Valley A., \$500. [Objected to by Mr. Davenport.]

Q. I show you voucher 5951; what is that. A. \$417.01 for turkeys. Nov. 24, 1863 is the date of the bill. I think they were given to the men as Thanksgiving gifts.

Q. Do you remember seeing in the newspapers at that time statements lauding Gov. Smith's generosity in making a present of turkeys each one of the employees? A. I do not remember it.

Q. Do you know of any other year in which the Trust furnished turkeys to the men. A. I do not, sir. Everything at that time was very high; wages were low, and the men complained very much.

Q. When were the wages raised? A. I don't remember when but I think after this.

Q. Then it was to silence the complaint of the men that the turkeys were distributed? A. Well, partially for that purpose [Voucher objected to by Mr. Davenport.]

Q. I show you voucher 777—\$1300; what do you know about Mr. Merrill? A. It is charged to general expense account. It is for services as "especial attorney," I. B. Bowditch.

Q. Did you pay that voucher? A. I presume Mr. Brainerd paid him the money, and I paid Mr. Brainerd.

Q. Mr. Merrill, is there such a corporation in St. Albans as the St. Albans Gas Co.? A. Yes, sir. The St. Albans Gas Light Co.

Q. Who are the principal owners of stock in that institution? A. I don't know, sir.

Q. Do you know whether W. C. Smith and Jno. G. Smith are owners of most of the stock? A. I thought they were owners of stock but I don't know that they own the principal part of it.

Q. Do you know what price this Trust paid that Gas Light Co. for gas? A. I don't remember.

Q. Was it 7½ per thousand feet. A. I presume it was something like that at first, but was afterwards reduced.

Q. Do you know what was charged by the Windsor Gas Light Co. at Bellows Falls? A. No, sir.

Q. You don't know that several dollars less per thousand feet was charged by those companies? A. I do not, sir; quite likely it was less.

Q. Do you know what price you paid in Burlington for gas? A. I do not, sir. We got our gas here less than what the public paid.

Q. Here is a bill of freight for the St. Albans Gas Co., with a voucher, for \$109 00; was that bill ever paid to the Company? A.

Q. Voucher 6,431? A. Expenses at Montpelier, 1863; for procuring charter of Eastern Vt. Road, including amount paid for advertising, &c., &c., \$237 50.

Q. Voucher 8,014—what is that? A. Expenses of J. D. Hatch at Montpelier, \$397 65

Q. Voucher 9,066, Sept. 1st, 1865? A. Cash paid board and travelling expenses on business for the company, year ending March 1865, \$358 92.

Q. Mr. Merrill, did you pay the vouchers I have just shown you? A. Yes, sir, I think I did.

Q. Have you any remembrance of any payments to A. T. Barron of White River Junction towards the expenses of fitting up a fair ground there? A. I don't remember whether it was paid to him or the Vermont Agricultural Society. This road subscribed towards the fair there as other roads in the state did also.

Q. How do you know that other roads did the same? A. I have learned it from the members and officers of the agricultural societies.

Q. Were those other roads managed by the Court of Chancery? A. I don't know, sir, whether they were or not. I am sure the Rutland Road subscribed to such fairs and also the Passumpsic. It was supposed that the roads got enough business out of the fair to afford to contribute to it.

Q. Was there ever any State Fair held at White River Junction to your knowledge? A. Yes, sir.

Q. How many years? A. I don't remember whether there was one or more. I don't recollect the year of that one.

Q. You don't know whether that was the Conn. River Valley Agricultural Association or whether it was the State Agricultural Society? A. The State Agricultural Fair was held there I think; I am not sure whether the Conn. River Valley Agricultural Association has ever held a fair there, perhaps they have.

Q. And it has been the usual custom of these Receivers of this Trust to contribute to the Agricultural Fairs? A. I don't know whether it has continued or not.

Q. Whether that extended to horse racing? A. I don't recollect any contribution to such an affair.

Q. Do you remember any contribution for a regatta? A. I do not.

Q. Do you recollect any contribution for a camp meeting? A. Nothing, except fitting up a depot, or something like that. Yes, I do remember, now; there was a contribution to one at Northfield. It was made with the understanding that they were to establish and maintain a camp meeting every year. I made the arrangement.

Q. How much was contributed? A. I don't remember,—not very much. I think the Sullivan Road contributed for the same purpose at Claremont. I am not sure if I made the contract with them in writing. I think it included the amount of contribution. I know it included carrying the passengers.

written in that form if it had been closed. July 25th may have been the date up to which his account had been previously settled.

Q. I show you voucher 1538, signed by Joseph Clark. It is for endorsing paper of the Vt. & Canada, and raising money on personal notes to the amount of \$135,468 50. The total amount, with interest included, is \$907 63. It states on the voucher, "Received of G. Merrill &c., in full of above account. Jan. 1st, 1862. Did you pay that bill? A I did, sir.

Q. By whose directions did you pay it? A. By the direction of the Trustees.

Mr. Davenport: There is another one of the same character signed by J. Gregory Smith, for J. Smith's account, which is for the same amount, and bears the same date. This voucher I object to pro tem.

Q. Mr. Merrill, what can you say about voucher 2089? A. It is for expenses of W. C. Smith to settle claims for infringement of car wheel patent, and also for Mr. Atwood's expenses upon the same business. I don't recollect anything about that; probably Mr. Smith can explain.

Mr. W. C. Smith:—I went with Mr. Atwood to look into seven claims. It had nothing to do with Atwood's patent, it was another matter.

Q. Mr. Merrill, do you know what the whole amount Mr. E. Jewett was entitled to receive for the gravel pit? A. I do not, sir. We bought an enlargement of the pit several times; I think as many as three times since I came on the road. It was the only gravel pit on the line north of St. Albans. There was one at Alburgh, but that was a quarter of a mile from the road.

[All the preceding vouchers in this examination were objected to by Mr. Davenport, except otherwise noted. The vouchers are in support of entries in Ledger E.]

[Court here adjourned until 9 A. M., Wednesday morning, 4th inst.]

WEDNESDAY, AUGUST 4TH, 1875.—MORNING SESSION.

Court assembled 9 A. M.

The following papers were put in as evidence by Mr. Walker, and marked as under; Statement of Claims and Objections of Mortgage Bond holders; marked "Exhibit 33." Receipt of the Montreal & Vt. Jct Railroad, marked "Exhibit 34."

Governor Smith called by Judge POLAND.

Q. Governor, you heard what was stated yesterday with regard to the sleeping-cars and your brother Worthington's connection with that matter. Will you state the history of that affair? A. When we started to put on sleeping-cars—I do not remember the year, but it was soon after I came into the Trust—we merely had ordinary day cars. We commenced to run a night train and fitted up the ordinary cars so as to make the seats convertible into sleeping berths, but the project being new, met with a great deal of opposition from the lower roads, and we had a great deal of difficulty to get the line started. After running about a year with these ordinary cars, which were so arranged that the seats and backs were made so as to lie open without any bedding at all on them, we found that they did not seem to take the public favor. Still, I felt very anxious to continue the project, as I was confident it would result in a success, but it did not meet with any encouragement, even from my associates, Mr. Brainerd and Mr. Clark, who had doubts as to whether we could maintain a night train on this road. But, as I was very persistent, they finally consented that I might make arrangements with Mr. Wagner, who was then starting his line of sleeping-cars upon the Hudson River Railroad, night trains being a comparatively new thing then. Mr. Wagner consented to put on two regular sleeping-cars, on condition that we would guarantee him, for two years, a certain number of passen-

gers per day. The number that he wanted guaranteed was considerably above what we had realized in our experience for the year we had first run night trains, nevertheless, my faith in the project was strong, and consented to guarantee the number of passengers and he put the cars on. They were two new cars that had just been built at the Troy Car Works. People were unaccustomed to ride in night trains and the thing went very slowly, and we found that at the end of the year we lost money on it,—that is, we had to pay Mr. Wagner his guarantee and the earnings of the cars were not sufficient to pay the amount of the guarantee. We guaranteed seven or eight passengers; Wagner was to receive 50c single and one dollar a double berth. At the end of that year Mr. Wagner was discouraged. The lower roads did not like the idea and did not want to run the cars. My associates, Mr. Brainerd and Mr. Clark, felt it could not be worked up, and I had to take it through almost alone.

Mr. Wagner wanted to withdraw his cars from the Line, so I said to my brother that I had so much faith in the matter that I desired him to take that contract from Wagner's hands, as I was sure it could be made to pay, and he took it for a year. I wanted our people to buy the cars then and own them and run them, but Mr. Clark and Mr. Brainerd were not willing to do that; they were unwilling to invest money in the cars. My brother then took the contract temporarily off Mr. Wagner's hands. I made up my mind that I would try it once more and then if it turned out unsuccessful I would give it up; I intimated this to the other roads and to my associates. People then began to find out that night travelling was not such a horrible thing as they had imagined; business began to improve, and at the end of the year, although it had not paid its guarantee, yet it looked so favorable that the contract, having run out, we decided to purchase the two cars. But with all the opposition of the lower roads we did not consider it proper that the cars should be known and run as ours. One of our reasons was that we had always been in the habit of giving passes to our employees who had to travel on business of the road, and if they knew the sleeping cars belonged to the road they would claim the right of a berth, and it would be hard on us to refuse their claims. In consideration of these reasons we decided to run the cars in my brother's name, and let him make the collection and sell the tickets for berths. The conductors were hired by him, and made their reports to him. After we took the cars of him, he continued to act in the same way, and handed the money over to the Treasurer. I think we paid him for his services some fifty or sixty dollars per month. I don't know if that was the amount, but whatever it was he received; the books will show. This continued some little time and the Line began to grow, and soon it became necessary to have a higher grade of cars and more of them. We finally started out upon a full night train built cars adapted for the service; the Line continued to improve, the lower roads admitted that it was the strongest train on the road and they began to speak favorably of the movement.

Q. (By Judge Poland.) The point is whether W. C. Smith acted in the capacity of agent of the Trust, that is whether the business was done through him? A. Yes, sir; it was at first. There was no objection for private speculation in the matter. The guarantee we gave W.

was designed to cover the cost of running the cars ; as the business did not build up after the first year Wagner was unwilling to go on, and my brother took the contract off his hands.

Q. (By Judge Poland.) That is, the second year of Wagner's contract was carried on in the name of your brother? A. Yes, sir.

Q. (By the same.) You deemed it advisable to have it apparently independent of the Road? A. We did until we got the policy and rule of the Line established so that even our own employees should ride in the sleeping cars without paying for a berth. We eventually relaxed that rule because it came back upon us as expenses. We continued these arrangements until we sold out to Pulman.

Q. (By Mr. Davenport.) At the time your brother bought out Mr. Wagner and took Wagner's contract on his own shoulders, whose money paid for the cars? A. I don't recollect that ; my impression is that we bought on time. I do not think there was money in it. I think the first purchase of my brother was about the time the payments became due to Mr. Wagner for the cars, so that there was no money in it one way or another ; but I am not sure.

Q. You don't understand that your brother paid for the cars out of his own funds, do you? A. I don't remember whether he gave Wagner his note or paid him the money. I don't think there is any way that I could tell.

Q. Will not the books show whether it was your brother's money or the funds of the Trust that paid for the cars? A. When the cars were finally bought of him I presume then the Trust money was paid.

Q. How was Wagner paid for the cars? A. My impression is that he bought them on credit from Wagner.

Q. When he was paid whose money paid him? I suppose he was ultimately paid? A. We paid the money to my brother at the time of the date of that voucher you had yesterday.

Q. Well, the time that you bought the cars, that is the time the Trust first had anything to do with the cars as owner was when your brother was paid for them? A. That is when it went on to the books. I intended to stand behind my brother in the transaction because I had great faith that the line would develop into a paying line.

Q. When you say that *you* stood behind your brother do you mean yourself personally or as Trustee. You said that this transaction did not have the approval of Clark and Brainard? A. Well, they did not oppose it. I was not acting against their decision, their judgment inclined the other way and they did not favor my idea at the time. They stood back and said ;—" You take the responsibility and go ahead."

Q. Did Mr. Clark and Mr. Brainard consent with the Trust, to stand behind your brother? A. I don't think that question was asked.

Q. You did not say anything to your associates Clark and Brainard, about your standing behind your brother, did you? A. I don't think I

Q. Did they know that the Trust was indemnifying your brother for all losses that happened from the running of that sleeping-train? A. We never indemnified anybody for losses.

Q. But you paid your brother a sum of money as shown by the voucher last night \$1,300 or thereabouts for loss in the sleeping-car? A. That was the guarantee of the contract.

Q. Was that a loss to the Trust? A. Well, the contract for both years was a loss as far as that is concerned.

Q. Now, that money was paid to your brother without the knowledge of Clark and Brainard, was it not? A. No, sir.

Q. When did you tell them? A. They knew of the contract with Wagner, and they knew of the amount we had guaranteed to pay him.

Q. And they knew that W. C. Smith took the contract off Wagner's hands, and that you had agreed to indemnify him to the extent that you agreed to indemnify Wagner? A. No, I do not think they knew my brother took the contract.

Q. But they knew that if that contract resulted in a loss to your brother that the Trust would make that loss up? A. I don't know the I named the matter specifically one way or the other to them.

Q. Will you produce the vouchers which show when and how Mr. Wagner was paid for the cars? A. I haven't a voucher that I know of. I don't know that there is a paper connected with it.

Q. Well, you heard your brother say that he knew nothing about the transaction. Now it seems to me an important matter to know the Trust paid your brother for those cars. A. Yes, the Trust did, sir, end.

Q. And they paid him for the losses? A. They paid the amount of the guarantee.

Q. You said these cars were bought of Wagner; now who paid Wagner for the cars? A. I don't know; my impression is that there was no money in it at the time.

Q. Is this Wagner, Mr. Webster Wagner of New York? A. Yes, sir; he runs sleeping cars on the N. Y. C. Perhaps Mr. Wagner could tell you more of the transaction than I can. The arrangement was between him and my brother, when we finally decided to take the cars. I think we have a voucher showing the loss the first year.

Q. Is there any way, Governor, that you can tell the Masters how much Worthington received a month for his services, and whether or not he received it from the Trust? A. He received it from the Trust.

Q. Did he take it out of the Trust and furnish vouchers? A. I think he took it out of the receipts for sales of berths in the cars. As far as I remember, Mr. Merrill made the settlements, and perhaps he can explain it. I don't know that I stated the amount correctly, it was entirely from memory.

Q. Is there anything upon the books of the Trust or among the vouchers that will show how much your brother received from the Trust? A. I presume there is, though I don't know.

Q. What became of the money received from the sale of berths that your brother paid in? A. It went into the funds of the Trust.

Q. Through what department? A. The Treasurer's I presume. It was paid to Mr. Merrill, who was then Treasurer.

Q. Did not that money go into the secret service fund? A. No, sir; there was no such thing then.

Q. When was this? A. I think in 1861 or '62. I think the first year we run the cars was in 1860, but I cannot fix the exact year with certainty.

Q. Is there any statement anywhere of receipts from sleeping cars? A. Yes, sir.

Q. Where is it to be found? A. Well, I say yes—I presume it will be on the books. The money would be paid over to the Treasurer, who would of course enter it on the books, but I have never examined the books to see if there are such entries.

Q. Under what head would such entries be found? A. Under the head of passenger receipts. I have never examined the books; probably Mr. Merrill can tell you where it is to be found.

Mr. Worthington C. Smith called by Judge POLAND.

Q. You have had an opportunity to refresh your memory and look into this sleeping-car matter since yesterday, what have you to state in reference to that affair? A. I want to say first in reference to my answer to Mr. Davenport as to whether I ever sold any sleeping cars. The circumstances had entirely passed from my mind. I did purchase of Mr. Wagner the two cars and the Trust eventually took the two cars off my hands. After they took the cars I still acted as agent or representative of the Company, keeping an account of the receipts as I stated yesterday and making the returns to Mr. Merrill, receiving as a monthly compensation perhaps \$15 or \$20 per month, whatever it was. It is about fifteen years ago, and I had forgotten that I was the medium through which these cars passed. I have not had time to look up all the papers and have not completed my search for them. Remember I was the purchaser from Mr. Wagner of those cars and took an assignment of the contract which he had with the Trustees and Managers. The cars stood in my name for I think something less than a year—more or less, and then they were passed over to the Trust. The Trust paid me and I paid Mr. Wagner. In answer to the inquiries as to their payment. I think I gave my note for the cars to Mr. Wagner, and I think a Mr. Eaton of Troy was interested with him. Eaton, Gilbert & Co. were the makers of the cars. I think that in the arrangement I made the cars were sold upon time—upon my note, and I think Mr. Merrill or my brother, or both, signed the note with me as I was at that time personally unknown to Mr. Wagner. I think Mr. Merrill made the contract as agent of the Trustees. My impression is that the cars were negotiated for on time, and when I gave my note Mr. Wagner required either one or both of these gentlemen—that is my brother and Mr. Merrill to sign the paper with me, Mr. Wagner knowing both of them as connected with the Road. I think at the time that I was paid by the Trust under that voucher produced yesterday. I think that money was used to pay a part of the note I gave Wagner. I should think I continued nearly four years as the collector of the receipts of the cars; but I must men-

tion that a great majority of the receipts for berths came through tickets sold in Boston and Montreal. It was thought that was a better way than to let the conductors of the cars collect the money. I gave an account of the cash and tickets to Mr. Merrill as Superintendent. I kept an account of the cash and tickets in a small book in which I put down the month's receipts from the sleeping-cars, the amount of salary paid the conductors and whatever other expenses there were, such as washing, and any small repairs which may have been done and which were shown on the reports of the Conductors. I don't know whether I can find that book now or not; I don't know where to look for it. At the end of each month, as soon as the conductor's bills were paid and the receipts fetched up, I paid over the money to Mr. Merrill—that is, the balance—whatever it was. It was that circumstance which was impressed upon my recollection yesterday, but not having thought of it all, it quite passed out of my mind that the purchase of the cars passed through my hand.

Q. (By Judge Poland.) When this contract was made with Wagner and you gave your notes for the cars, was it understood that you bought these cars for yourself personally? A. No, sir; I gave my personal note for them, but I had no intention of going into the sleeping car business.

Q. (By Mr. Davenport.) At whose request did you give your note to Mr. Wagner? A. I made the arrangement with Wagner for purchasing the cars, and made the payments, because they did not want to be named in the purchase at that time; that is my impression. I did not want to advance the money to pay for the cars, and it was arranged that I should purchase them on time and give my notes. These notes were signed by Mr. Merrill and my brother, by one or both, with me, because I was a stranger to Mr. Wagner and they were known to him.

Q. At whose request did you give your notes to Mr. Wagner? A. I cannot tell you whether it was my brother's or Mr. Merrill's or both.

Q. Did you have any talk with Mr. Brainerd or Mr. Clark about the matter? A. I cannot tell whether I did not; my impression is that when I took the assignment of the contract from Mr. Wagner; my recollection is that that had the approval of Clark or Brainerd, or both. In the original contract made with Wagner, Mr. Clark knew what the relation to it was, because I talked to him frequently about it afterwards but I don't remember whether I talked to him at the moment.

Q. Mr. Clark approved of your relations in the matter? A. Yes, sir.

Q. Have you the contract in your possession which Wagner assigned to you, and if so will you produce it? A. I think I have somewhere. I will produce it if I can find it.

Q. Will you now tell the Masters for how much you gave your note or notes to Wagner and Gilbert, either to one or both? A. I should say about \$5,000.

Q. Have you anything in your possession that will show how much you gave your note for? A. I had once. I don't know whether I can find the papers now.

Q. You said a while ago that you had found some papers? A. I did not intend to say that; I meant to say that I had started to look them up, but that I had been unable to find them. I did not mean you to infer that I had found any.

Q. Did the Trust pay the full amount of the notes which you gave Wagner or Gilbert, or both of them, for these two sleeping-cars? A. The amount the Trust paid will be shown upon the voucher you had yesterday. I think it was \$5,000.

Q. Then, if you paid \$5,000 there was a loss of somewhere about \$2,500, was there not? A. I don't remember now, what that amount was.

Q. There was a loss equal to the difference between the amount paid you by the Trust for these cars and the amount which you paid Wagner & Gilbert? A. I presume that some portion of the earnings may have been applied to the payment of the note. I cannot give you the details of the thing.

Q. Is there any way that you can tell the Masters how much you gave your note or notes for? A. I cannot tell you whether I have any record among my papers or not. I had some old papers that I supposed were all settled and done with, that were in the Foundry vaults. It was a great many years ago and they have nearly filled the vault with their papers now, and I don't know whether I can find the package or not.

Q. You kept the papers connected with the sleeping-car transaction in your private box, not among the papers of the Company? A. Well, I had no business here with the Company at that time.

Q. Did you make or lose by that transaction? A. I have not the slightest idea now. I got my monthly compensation. I presume I had it out of the money realized by the sale of berths.

Q. Will you make search for and produce such papers as you can find in relation to this transaction? A. I will look for them, sir.

Judge Poland:—You inquired, Mr. Davenport, of Governor Smith as to whether there were any receipts from sleeping cars shown on the books. There is an amount in ledger "E," Nov. '62, for \$195 30. When Wagner first made the contract there were no receipts entered on the book, because there were none to enter.

Governor Smith re-called by Mr. Davenport.

[All the following vouchers are from Ledger E.]

Q. I show you voucher 843, and ask you to state what that is? A. Legal expenses charged to that account from the general expense account. It is an amount of \$289, paid to Asahel Peck; I have no exact recollection of it. I know Mr. Peck was counsel at the time for the Trustees and Managers. I presume the amount was paid by Mr. Appleton, Station Agent at Burlington, and he would return this voucher in cash.

Q. Are you satisfied that that \$289 is part of the legal expense account? A. I presume all the legal expenses go into the general expense account first, and are transferred from there to the legal expense account; but I don't know.

Q. I show you voucher 999 for \$710, signed by Asahel Peck, ask you what that is for? A. It is dated July 31st, 1861, and is an order to pay the amount to Joseph Clark. Mr. Clark can explain it.

Q. Is it part of the legal expense account? A. I should think it was, but I don't know, I have not the slightest idea. I will give Mr. Clark's explanation of it if you want it. It is one of his transactions. I will have the account looked up and explained. It may be a bill ordered to Clark, and he gives this order for the money. I presume a bill of legal expenses, I think most likely it was, but I don't know.

Q. I show you voucher 1,342, for \$1,000, dated Dec. 13, 1861, ask you what that is? A. It is signed by Levi Underwood, and is a receipt for six months' salary. This I should say was Mr. Underwood's legal expenses.

Q. I show you voucher 1,618, Jan. 31st, 1862, for \$1,000; ask you what that is for? A. For legal expenses; Isaac F. Redfield, I presume.

Q. Where did he then reside? A. In Boston.

Q. What were those services—that is, what was the nature and character of the services rendered by Judge Isaac F. Redfield to the Trust? A. I cannot tell you, sir; that was so early in my administration that I cannot altogether tell you. I know that Judge Redfield was our adviser, and a good many of the bondholders sought his advice. He gave several written opinions.

Q. How was it that he was counsel for you and for several bondholders? A. I said he was consulted frequently by the Trust and by a good many of the bondholders in regard to settlements.

Q. Did you understand that the Trust were to pay Judge Redfield for his services rendered to the bondholders? A. What I understood to say was that the bondholders, knowing he was our counsel, felt at liberty to go and consult him frequently on any questions that arose.

Q. Were Peck, Colby, Andrew Tracy and Levi Underwood counsel for your Trust at the same time? A. Yes, sir, we had large retainer fees of them.

Q. Where did you have large quantities of them? A. As a matter of necessity—we were swamped with litigation.

Q. Did Judge Isaac F. Redfield ever appear as counsel for any case in court in the State of Vermont? A. I cannot tell, sir.

Q. Did he ever appear in any state for you? A. I think I engaged a case in Boston; but I don't remember distinctly. I do not but he once appeared before Judge Poland as our counsel.

Q. Did you deem Judge Isaac F. Redfield's services necessary to this Trust in addition to the other counsel, Peck, Tracy and Underwood? A. We did, or we should not have retained him.

Q. I show you voucher 3,705, dated July 22d, 1861, signed by L. Bennett; what is that for; is that a voucher paid him for personal services? A. Yes, sir.

Q. I show you voucher 3,259, Levi Underwood's draft, dated 10th, 1862, for \$1,021, on the Trustees and Managers, and ask you

that is for? A. Six months' services, from Dec. 21st, 1861, to June, 1862, with four months' interest added.

Q. I now show you voucher 3,422, dated Dec. 6th, 1862, signed by Levi Underwood, and ask what that is for? A. For salary and personal expenses, \$1,219.

Q. What account is that amount charged to? A. I think it is charged to law account.

Q. Was not that paid by Smalley? A. Yes, sir.

Q. Then that will decide that Smalley was clerk here then? A. Yes, sir, I suppose it will.

Q. I show you voucher 3632, dated Jan. 3d, 1863, signed by Isaac F. Redfield, for \$1000; what was that for? A. Professional services.

Q. I now show you voucher 4494, dated Jan. 9th, 1863, signed by Levi Underwood; what is that for? A. Six months' salary; \$1000.

Q. I show you voucher 5372, signed by George G. Hunt, dated Oct. 19th, 1863, for \$75.65; what is that for? A. For returning bills in suits pending in Franklin County Court; it is for legal expenses.

Q. I show you vouchers 5629 and 5630, dated Dec., 1863, and signed by Levi Underwood: what is 5629 for? A. Half a year's salary, from June to November, 1863, \$1000.

Q. And 5630? A. Going to Boston and attending a meeting of the directors, \$21.50.

Q. To attend a meeting of what directors? A. A meeting of directors of the Vermont Central Road. They were allowed \$5 a day for expenses.

Q. Then Gov. Underwood was at that time a director of the Vermont Central Road? A. He was, sir.

Q. Now, sir, why did you pay out of the Trust fund, the services of the directors of the Vermont Central Road? A. For the reason that it was regarded by our counsel as necessary to preserve that organization, and it could not be maintained without incurring some expense.

Q. Did you at that time personally hold all the stock of the Vermont Central Road? A. I do not think that I did at that time.

Q. When did you become owner of all the capital stock in the Vermont Central Road? A. I cannot tell you, sir; I think in '65 or '66; some where along there. We had a great strife to see who should have it with some parties in Philadelphia.

Q. When you bought that stock did you buy it as a Trustee or an individual? A. I bought it in my own right.

Q. And you claimed to own it in your own right? A. Well, I didn't want to show my affairs to too great an extent.

Q. You did claim it in your own right? A. Yes, sir.

Q. With what Philadelphia parties was the strife to get control of the stock? A. Well, it was with what was called the Cook party. They wanted to get control of the stock for the purpose of annoying the rest and instituting additional proceedings in court. I sold them out, went to Burlington and elected the Board and kept the thing steady.

Q. I show you voucher 5897, signed Isaac F. Redfield, dated Jan., 1864; what is that? A. Jan. 1st, 1864, as counsel to J. Gregory

Smith and others, Trustees Vt. C. Ry., First Mortgage Bondholder
Debtors to

Professional services,	- - - - -	\$ 500	
Retainer,	- - - - -	500	
			\$1,000
Credited by passes on their road,	- - -	\$100	
“ “ amount charged Vt. & Canada,			
deducted as per letter,	- - -	200	
			\$300
			\$700

This amount is charged to law expenses.

Q. What does this deduction of \$200 mean, charged over to the Vt. & Canada Road? A. I can only say from recollection. My impression is that the Vt. & Canada applied to him for his opinion of their liability under their charter to build the Swanton Branch, as part of their charter. I remember, they referred that question to him as to whether they were legally liable in the construction of that Branch under the terms of their charter. Mr. Redfield gave them a lengthy written opinion in which he held that they were liable. When the bill was rendered the Vt. & Canada at the time had no funds, any more than they have now, except they drew of us for the incidental expenses, which we reserved to them under their lease, and I think they gave Mr. Redfield an order on us for the amount of his bill, and he deducted that amount from the bill you have just shown me. We paid it, and it was embraced in this charge. My impression is that we charged it over on the Vt. & Canada to their incidental expense account. That is my best recollection of it.

Q. I show you voucher 6009, signed by C. S. Woodbury, January 18th, 1864; what is that for? A. "Professional services and advice as counsel, Jan. '64, \$980—\$20 for expenses of Mr. Abbot." He was retained by the second mortgage in the fight against us, and appeared for them to bring a variety of suits when they attempted to get possession. When they got through with these suits, the Court ordered us to pay the expenses of the fight, and this is one of the bills.

Q. But I understand that voucher to be for \$1000 in addition to the sums paid by the court, why did you pay that much more than the court allowed to pay? A. I think it came in under another allowance somewhere, I think under the second and last arrangement we were to pay these expenses.

Q. Do you mean to say that you paid that thousand dollars under any order of the court? A. I think it was under an order of the court.

Q. Will you produce the order under which you paid it? A. I think it was under that order. I don't think the court ordered any specific sum, except that we were to pay all the costs, and he rendered his bill up to a certain time, and I think they have another bill for the balance.

Q. The date of his professional services as counsel was in January, 1855 to January 1864, was it not? Does it not say there "addition to the bill heretofore paid by order of the Court?" A. Yes, sir.

(The authority of the court ordering the payment in question were here referred to and read by Judge Poland.)

Q. I show you voucher 6589, Nov. 30th, 1863, signed "Levi Underwood," \$1000; what is that for? A. Six months' salary, Nov. 1863 to May 1864.

Q. I show you bill of Peck and Colby, beginning in 1855 and ending in 1861, amount \$4559.34; what is that for? A. For legal expenses which the court ordered us to pay.

Q. I show you voucher 6590, dated May 21st, 1864, signed by Peck and Colby; what is that for? A. That is \$300 paid to them on account of legal services.

Q. I now show you voucher 6591, April 13th, 1864, for \$100; what is that for? A. That is the same as the other, sir, on account of legal services.

Q. I show you voucher 6592, January 1st, 1864, signed by George G. Hunt \$123, what is that for? A. Services as attorney from March till June 1864. I think that was on his salary, we allowed him \$500 a year to look after the Trustee business of the Road.

Q. I now show you voucher 7623 for \$857 63, dated September 7, 1864, signed by A. Tracy; what is that for? A. Professional service.

Q. I show you voucher 7624 for \$125 to George G. Hunt, what is that for? A. That I presume is for a quarter's salary as attorney. We had several Trustee's suits all along the line of the Road and we had to take care of them. We had several defaults. The service under the law was very loose, and often times we were caught. We finally employed Mr. Hunt and made an arrangement for the station agents to report everything to him, and he looked after that business at a salary of \$500 per year. These receipts are for one quarter's salary.

Q. Then Mr. Hunt's duties extend to the care of Trustees' suits? A. Yes, sir; and he had \$500 per year for doing that.

Q. I now show you voucher 8158 for \$400, dated Sept. 30th, 1864—Peck & Colby—what is that for? A. Legal services.

Q. I show you voucher 8159, for \$125, dated Nov. 26th, 1864, Geo. G. Hunt, what is that for? A. Same as before.

Q. I show you voucher 8160 for \$1000, dated December 1st, 1863, what is that for? A. Salary of Levi Underwood, for six months.

Q. Voucher 9099 for \$125, Geo. G. Hunt, what is that for? A. Same as before.

Q. Voucher 9554 for \$1076 37, signed Levi Underwood, what is that for? A. Salary for half year professional services, and cash paid out in various suits.

Q. Voucher 3099, signed Andrew Tracy, Oct. 7th, 1862, for \$2058 45, with a credit of \$250, what is that for? A. Legal expenses, Vt. & Canada vs. Vt. Central

Q. Voucher 3423 for \$458 74, signed by Levi Underwood, what is that for? A. Services as Director of the Road with interest added.

Q. Voucher 8,795, Feb. 23d, 1865, signed T. Wentworth, \$300; what is that for? A. There is no voucher enclosed; I cannot explain what that is for, sir. I presume it was a claim for patent against us.

Q. Voucher 8,557, Timothy Redfield, \$200, Feb., 1865, the receipt signed by Pinkerton; what is that for? A. Mr. Pinkerton acted as committee of the bondholders, and obtained that money to pay Mr. Redfield for his legal services.

Mr. Merrill re-called by Mr. DAVENPORT.

Q. Mr. Merrill, I show you voucher 8,775, signed by T. P. Wernworth, and ask you what that \$300 is for? A. A contribution of this road with other roads to resist the extension of the Goodyear patent.

Q. Was it to resist the extension by Congress? A. Either by Congress or the Commission on Patents.

Q. At whose suggestion did you pay that amount? A. I don't recollect; quite likely I did it at the suggestion of the Managers of the Eastern R. R. Association, organized for the purpose of resisting legal patent claims.

Q. Then you paid that \$300 at the order of that Association? A. Not by their order, but perhaps at their suggestion.

Q. I show you voucher 7618, for \$1500, dated September 25th, 1864, and ask you what you know about that voucher? A. I understand it to be for land damages at Burlington, in the use of land occupied by the old line.

Q. By the old Vermont Central Railroad? A. Yes, sir. It was afterwards abandoned.

Q. Will you read that voucher? A. "Trustees of 1st mortgage bonds, &c., to Joseph Clark and J. G. Smith, Dr.; September 25, 1864. For amount of settlement made for use of land occupied by the Vermont Central Railroad in Burlington on old line, from 1859 to date; being a land claim made by Hart, Leslie and Warren, of Troy, which case was tried in Chittenden County Court, and decided at the last term of Chittenden Supreme Court; said land was never appraised but was taken by the company without appraisal and used until now, 15 years \$1500; signed by Joseph Clark and John Gregory Smith." The receipt on the bottom is: "St. Albans, September 25, 1864; Received of the Trustees etc., etc., \$1500 in full of above account. Joseph Clark, John Gregory Smith."

Q. Well, that is a receipt of Clark and Smith, from themselves is it not? A. Yes, sir.

Q. Do you know anything about that matter, except as appears upon the face of the voucher? A. I do not. Mr. Clark will know what it is for; or Mr. Underwood knows what it is for.

Q. I show you voucher 6492, April 9th, 1864, signed by Robert and Chittenden; what do you know about that? A. I don't know anything, except that I paid it.

[This voucher was explained by Mr. Underwood. Should be charged to legal expense account.]

Q. I show you voucher 7483, signed A. H. Williamson, dated Sept. 28, 1864; what is that for? A. \$125 for detective employed at White River Junction to catch men who had been robbing cars of freight. We succeeded in catching the thieves and regaining some of the freight.

Q. I show you voucher 7742, for \$30, H. A. Bailey, dated Oct. 24th, 1864, what is that for? A. This bill is for the expenses of the detective. The expense was shared in by the Passumpsic and Northern R. R., it was to catch thieves at White River Junction.

Q. Was any proportion of that charged to the Sullivan Road? A. I think not.

Q. Were you frequently in the habit of employing detectives for the purpose of catching thieves? A. Well, occasionally. We had several cases of freight stolen, and it was necessary to put a detective on the track of the thieves.

Q. By whose directions did you employ detectives? A. They were employed by the General Freight Agent, Mr. Hobart, who was in consultation with me, and perhaps with the Trustees. I think the Trustees knew of it.

Q. I show you voucher 98, Nathaniel Allen, for \$774, Oct. 24th, 1864, what is that for? A. He was employed for the same purpose.

Q. Where was he employed? A. St. Albans, I judge by his bills. I would remark these detectives frequently caught thieves, and got back a large quantity of freight stolen; but little was known about their being employed, because they would go with the men and profess to be brakemen, and whilst they appeared to be in the service of the Company, they would be acting as detectives, and in that way would keep a watch over the men. They broke up a nest of thieves several times.

Q. I show you voucher 9166, Smith & Co., May 6th, 1864, what is that for? A. It is for expenses in advertising time-table for one year in the St. John's News.

Q. What time-table was that? of the railroad? suppose you read it. A. "Vt. C. and M. & Vt., Smith & Co., Dr., in advertising time-table for one year, \$12 50; stationery \$2 37; total \$14 87. I presume that stationery was for the office in St. John.

Q. I show you voucher 4692 for \$5250, what is that for? A. I presume it is for the amount allowed J. Gregory Smith as agent for the construction of the Burlington Branch for three years.

Q. Voucher 3925 for \$150, Feb. 11th, 1863, what is that for? A. It is for patent-rights on an improvement on railway car-wheels.

Q. Who had the benefit of that improvement? A. I don't recollect, I think the road had the benefit of it.

Q. How did the road become liable for that amount? A. I presume by the use of the wheels, I am not sure how it was.

Q. Didn't they have car wheels of W. C. Smith? A. Not all of them. A good many of the wheels didn't come from that concern.

Q. Is that for a patent upon other wheels than those furnished by W. C. Smith? A. I don't remember, sir; it was a long time ago.

Q. Is there any way by which you can tell? A. I presume nothing will show what wheels the patent applied to. We bought the right; it may have been for use prior to that. The wheels may have been purchased twenty years ago, for all that I know, and not used at that time; or they may have been on cars that were purchased by the road.

Q. I show you voucher 4003, March 3d, 1863, L. Brainerd, \$3985.87; did you pay that? A. I presume I did, sir. It purpo to be paid by virtue of some decree or order. It may have been allow by the Masters.

Q. Is there any such an order as that on file in the office? Not that I know of sir.

Mr. Davenport:—I should like to see the order or decree by virt of which that item was paid.

Q. Voucher 4331, \$6, May 15th, 1863; what is that for? Subscription to the New York Times for their daily for that period—months I presume.

Q. Whose subscription was that? A. I don't know.

Q. Who made it? A. I don't know but I did; it came to d office.

Q. Is there anything to show that you made the subscription for it? A. No, sir, no further than that I approved. It was during the tim that gold was fluctuating greatly, and it was considered in the inters of the road to be informed in that matter.

Q. I show you vouchers 4671-2-3, Jan. 4th, 1862, signed by Cla Brainerd and J. Gregory Smith; what are these for? A. This on 4671, is for \$1950; amount of compensation for signing bonds for t Vermont & Canada Railroad in 1855, at the time I took possession the roads under order of the Chancellor, as per statement herewi signed J. Gregory Smith, Trustee of J. Smith's estate. The others a like that except that they are signed respectively by Brainerd and Cla

Q. Do you know what bonds these were that were so signed? A. I do not.

Q. Were they the bonds the Receivers gave as security for t Trust? A. So I understand it. I judge from reading the receipt t they were bonds given by the Vermont & Canada when they were und receivers.

Q. Do you know from what time to what time the Vermont Canada Railroad were made receivers? A. I do not remember date.

Q. By whose order did you pay these sums? A. By order of Trustees, I presume.

Q. Where are the bonds which were signed by these men; you ever see them? A. No, sir, I have no recollection of seeing the

Q. I show you voucher 4839, July 24th, 1863, signed William R——, \$97 50; what is that for? A. For six revolvers and I pose cartridges. These revolvers were purchased about the time raids were made upon the road. They were burning bridges and c mitting depredations along the road, and these revolvers were for w men who watched the bridges. Mr. Tinney was bridge-master at time and had these pistols purchased.

Q. Where are these revolvers now? A. I don't know.

Q. Where were they when you last saw them? A. I think t were in the Superintendent's office.

Q. Were they kept in the Superintendent's office? A. I most of them were returned here.

Q. Then the purchase of these revolvers was to protect the bridges from being burned? A. Well, to protect the watchmen at the bridges.

Q. What bridges? A. Well, I don't remember the bridges. We had watchmen on a number of bridges. We had one on the bridge at the Burlington Branch;—we kept watchmen at the long bridges. There were three watchmen on the Burlington Branch; one at this side of Williston and one at this side of Waterbury. If I remember correctly, we had one at Clark bridge, this side of Richmond. I don't remember distinctly, now, it is a good while ago.

Q. I show you voucher 4854, for \$582 50; what is that for? Suppose you read it. A. "Trustees First Mortgage, &c., in account with A. Tracy, Dr. October Session of Legislature, 1859; to 5 weeks—46 attendances before Committee, and as counsel for them in procuring act of extension for Vt. & Canada to build Branch into Burlington, and expenses,

	\$500 00
Interest,	82 50

Total,	\$582 50
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Received payment, Aug. 1st, 1863, by draft drawn by St. Albans Bank on Suffolk Bank, Boston. A. Tracy."

Q. What account is that charged to? A. It does not specify on the back, but I should think it ought to be charged to legal expense account.

Q. Did you approve the bill? A. It is not approved by any one, that I can see.

Q. Can you tell of any reason why the Trust should be charged with the expense of counsel in procuring the passage of an act extending the Vermont & Canada into Burlington? A. The road was being threatened by the Rutland road as I understand it.

Q. What road was being threatened by the Rutland Road? A. The Vt. Central and Vt. & Canada, or the Vt. & Canada proper I suppose. It was just about the time I came on the road in 1859. I understood both roads to be interested in the construction of that branch—both the Central and Vt. & Canada.

Q. I show you vouchers 4,942—3—4 for \$100 each, signed James Walker & Co.; what is that for? A. Bill of wheel-barrows.

Q. How many wheel-barrows are covered by these vouchers? A. 50, each bill.

Q. What was done with these wheel-barrows? A. Part of them were used on the Central Road, part furnished to the Trustees to build the Swanton Branch and paid for by them, and some were kept in store.

Q. Did any of them go into the Montreal & Vermont Junction R. R? A. Not to my knowledge. I think we had a portion of them at Burlington, but they were distributed as they were needed to sections on this road. We were likely at any time to have "washouts," and had to keep a stock of wheel-barrows on hand so that they might be used in such cases of emergency.

Q. I show you voucher 1,033, Sept. 3d, 1861, signed by Edward Thompson, and ask you what that is? A. For wood on the Sullivan Road the time the lease was taken.

Q. What fund paid that bill? A. The Trust fund, as I explain the other day. The Central Road purchased wood for use on both roads, the Sullivan Road being charged its share.

Q. Was there a repair shop kept and maintained at Charlestown? A. There was previous to the lease, and for a little while after.

Q. How long after? A. Perhaps a year, but I am not sure.

Q. Voucher 1,034, Sept 13th, 1861; what is that for? A. It is for supplies for that shop just mentioned, I presume.

Q. For the Charlestown shop? A. Yes, sir.

Q. What fund paid for these supplies? A. The Trust fund, should judge by the endorsement on the bill. I may, however, be mistaken in the point as to whether the Sullivan Road kept that shop running; I am not certain about it. I may have the thing mixed as to date.

Q. Do you remember testifying where the rails of the Sullivan Road were repaired; that they were repaired at Charlestown shop? A. Yes, sir; but not at the Charlestown machine shop. There were two shops there.

Q. Was that bill for supplies for the rail shop or machine shop? A. I think for the machine shop, if that shop was kept open.

Q. That bill should be charged to the Sullivan Road, should it not?

A. Yes, sir.

Q. Will you look and see if it has been charged to the Sullivan Road? A. I will endeavor to ascertain. I may be mistaken in regard to the point as to whether that shop was kept running at all, after the lease.

Q. Voucher 1035, what is that for? A. That is for lumber charged to shop stock account \$123 17.

Q. Should that bill be charged to the Sullivan Road? A. It should if the shop was kept open, and the lumber was used there.

Q. Who was Edward Thompson? A. He had charge of the road a little while as lessee under Mr. Eldridge, when the lease was taken from Brainerd and Clark & Smith. Mr. Thompson had the lease from Mr. Eldridge, who was his brother-in-law.

Q. I show you Mr. Thompson's voucher 925, what is that for? A. Carwheels and axles. That stands on the same ground as the other voucher. I will look that up and see if there is any error as to the counting of these articles. They were no doubt entered on the books of the Central, and if used by the Sullivan Road they should be charged back to that road. If they were not used on the Sullivan Road, they would come back to the shops here and be used here. They were paid for by the Central and used by the Sullivan, except by mistake, and if such a mistake was made it would be my fault. But I don't think I made any error of that kind.

Q. I show you voucher 1084 for \$123 37, what is that for? A. Freight on old rails sent to Charlestown. I bought the old rails of Mr. Thompson; the Central Road was short in its rail account with the Bay State Iron Co., we wished to make up the deficiency and bought the old rails of Mr. Thompson and sent them to the Bay State Iron Co. That is the freight bill for the rails.

Q. Who paid that freight bill? A. The Vt. Central Road paid it I presume.

Q. Who paid for the rails that were purchased on the line of the road? A. I think the Central Road did, I think you will find the bill somewhere for that. I think there is such a bill.

Q. I now show you voucher 1069; does that help you to an explanation of this previous voucher? A. The one you now show me purports to show a payment to Mr. Thompson for rails; the quantities are not exactly alike, one is 122,000 lbs., and the other 119,000 lbs. We paid Thompson for 119,000 lbs., but we paid the freight on 122,000 lbs. We paid Thompson \$20 per ton for the old rails, which I thought at the time was a very low price, and I still think so.

Q. I show you now another of Thompson's bills, \$10.70; what is that for? A. That is a bill for shop stock purchased of Thompson at the same time I judge.

Q. And standing upon the same ground as the other two? A. Yes, sir; and in this bill is the correction upon those old rails. The Sullivan road is charged for 122,000 lbs., and should only have been charged for 119,000 lbs., consequently there was an overcharge which would account for the difference in quantities on the two bills.

Q. Voucher 3545, for \$54.11; what is that for? A. Proportion of the Central Road in cleaning cars. The cars are cleaned at each end of the road, and the other roads join in paying their proportion of the expense. This bill is for the Central Road's proportion, that is 14 miles, \$54.11. The cars run on the Connecticut River line from St. Johnsbury to Springfield.

Q. Voucher 4404, for \$1300; what is that for? A. Old cars bought of the Sullivan by the Central; 10 freight cars, and 10 gravel cars.

Q. When were these cars bought? A. May, 1863. They were bought by the Managers of the Central Railroad from the Sullivan Railroad, perhaps a little before, or about the time when the Northern Road took the rolling stock off that road. These were old cars, and pretty much worn. There were 2 at \$75; 3 at \$100; 2 at \$150, and 10 gravel cars at \$55 each. They were very old cars or else they would not have been sold for that price. I think we had them lying on our side track at North Charlestown.

Q. Voucher 4394, May 18th, 1863, signed H. Hastings, cashier; what is that for? A. That is for \$6.31, proportions on losses of liquor taken from barrel in transportation, signed correct, J. Hobart, and charged to road between White River Junction and Bellows Falls.

Q. Now, I want to get at the rule you adopted when freight was taken between White River Junction and Bellows Falls, or on the line of which that was a part; how did you get at it? A. We divide the loss according to the distance; I presume if we could locate the loss, the road making the loss had to pay for it; if we could not locate it, the loss was divided.

Q. Did you pro-rate by miles? A. Yes, sir; we pro-rated on a mileage basis.

Q. Well, how was that bill pro-rated? A. I suppose the Sullivan Road was charged twenty-six fortieths; they should be. This note by Mr. Hobart gives directions to the clerk to charge the amount between White River Junction and Bellows Falls; that amount was only our proportion of the loss. If we could locate the loss it would be charged to that road on which it occurred. If the Sullivan Road were entirely at fault, they would be charged the whole amount.

Q. So far as this bill is concerned it appears to have all been charged on the books of the Trust as freight damaged. A. Yes, sir; it must necessarily so, but there should be an entry on the Sullivan books corresponding to this amount.

Q. Now, for illustration, will you look and see whether the Sullivan Road ever paid this amount—that is, if it ever paid its proportion of that loss? A. I will look, sir.

Q. Voucher 8,294, for \$161 12, July 21st, 1864; what is that for? A. It is a bill of lumber bought of the Sullivan Road, and brought from there on to the Central. I presume to the shops here.

Q. What makes you presume so? A. Because it is certified by Mr. Camp, clerk to Mr. Perkins, Master Mechanic. The bill says: "Charlestown, July 21st, Managers of Sullivan R. R. to C. V. C. R., Dr.,

To 6,575 ft. Oak, \$20 per 1000 ft.,	\$181 50
To 1,073 ft. Butternut and Chestnut.	26 92
To 180 ft. Butternut,	2 70
	<hr/>
	\$161 12

"Approved, J. M. Glidden; correct, charge stock stock. R. Camp." When Mr. Camp certifies a bill of this sort, it would show that the material was used here, and this was a class of lumber that was not used on the Sullivan Road.

Q. Did you purchase your oak in that section of the country? A. Yes, sir, it was obtained very good there. I don't think we buy any oak this side of that section of the country.

[The foregoing comprises all the vouchers from Ledger E.]

Q. Mr. Merrill, have you any knowledge of how Mr. Webster Wagner was paid for the cars which he sold to the Trust, or to Worthington C. Smith? A. It was paid in cash, I suppose.

Q. Have you any knowledge of that payment? A. I don't remember now; I have no recollection of the payment; I presume Mr. Smith paid it.

Q. Do you remember signing any note to Wagner? A. I think quite likely I did, but I don't remember the circumstance now.

Q. Had you anything to do with the transaction of selling the Pullman sleeping-cars, which belonged to the Trust, to the Pullman Car Co.'y? A. Governor Smith sold them, I think; he spoke to me about it at the time.

Q. Did you make any appraisal of the cars? A. I did not.

Q. Do you know of any appraisal being made by any one connected with the Trust? A. I don't recollect, now, sir.

Q. Have you any recollection of what they were appraised at? A. I don't remember, sir. I think we sold them for as much as they were worth at the time.

Q. Do you own part of the stock that was received in settlement for these cars? A. I took some of the stock and I still hold it. I took \$5,000.

Q. What dividends have you received upon that stock? A. I have received, I think, 12 per cent. every year.

Q. Do you remember what that stock was selling for in the market at the time you took it? A. At par, I think. It afterwards went up, but now it is down. It only went up for a short time, and is now, I think, 95 or 95½.

Q. (By Judge Poland). Did it ever get up above par, Mr. Merrill? A. I think it went up to 112 at one time. At the time I took the stock it was at par.

Q. How does it happen that stock paying 12 per cent. dividend is only worth par? A. Well, I don't know. It is quoted at 96 now, and there is about 12 per cent. paid on it. It pays me 3 per cent. quarterly, but I should be very glad to sell it at 96.

Q. If so, why didn't you sell it at 112, when it was at that figure? A. Because I was foolish, I suppose, and held on to it.

Q. What interest, while you were Superintendent of this road, did you have in the stock of the V. I. & C. Co.'y? A. I subscribed, I think, for \$5,000 of that stock and paid two or three assessments and then sold it.

Q. What interest did you have in the stock of the National Car Co.'y? A. I took some of that stock, but have since sold it.

Q. While you were Superintendent of the road were you interested in the stock of either or both of these car companies? A. I was for a time, sir.

Q. Was there any time after these companies were organized that you were not interested as a stockholder in one or the other of them? A. I think I sold the stock before I left the road.

Q. How long before you left the road? A. I think some three or four months.

Q. By whom was the stock in these companies generally owned? A. The stock of the National Car Co.'y was owned to a large proportion in Canada: more than half, I should think, but perhaps I may be mistaken. The remainder was mostly taken up by people interested in the railroad here and some parties in Boston.

Q. The parties in Canada who took the stock were parties interested in the G. T. R. R., were they not? A. Some of them were, but I don't think all of them were.

Q. Did any parties interested in the Ogdensburg Road and also in the Northern Transportation Co.'y own any stock in the National Car Co.'y? A. I don't know, sir.

Judge Poland suggested that the list of subscribers would be found in the Report of the Investigating Committee, which Report has been put to the case.

Q. What dividends did you receive from the stock which you had in the National Car Co.'y? A. I think it has paid 10 per cent.; this is, $2\frac{1}{2}$ per cent. quarterly. Perhaps not all quarterly, but a portion of the time.

Q. Was that stock treated as paid up stock after 50 cents on the dollar had been paid in? A. I think it was, sir, but I am not sure. The first stock was issued at 50, afterwards 75 and then 100.

Q. Did you subscribe for the first stock issued? A. Yes, sir.

Q. And for the original stock that you held you got 10 per cent on the par value, which was equal to 20 per cent. of what you had paid in? A. Yes, sir.

Q. When you sold the stock that you had, what did you get for it? A. I think $72\frac{1}{2}$.

Q. You got $72\frac{1}{2}$ for what cost you 50? A. Well, sir, the stock cost me 50 at first, but I took my share of the latter stock which was 75 and 100.

Q. Did you average to get more than you paid for the stock? A. I think I did.

Q. Well, you got your money back, and 20 per cent. per annum for what you paid in? A. Well, I didn't lose anything on it. I may have got my dividend out of the principal.

Q. During the period that you were superintendent what knowledge did you have of the arrangement between the Trustees and Managers and W. C. Smith with reference to car wheels and railroad castings? A. I did not know that Governor Smith, as one of the Trustees and Managers, ever took an interest or part in the matter of car wheels and castings. Mr. Brainerd used to speak of the matter occasionally; I think Mr. Taylor took the matter up finally and settled it. Previous to the time Mr. Perkins, the master mechanic, attended to the matter.

Q. (By Mr. Fifield.) What period did Mr. Taylor settle the matter? A. I don't remember, but I think while he was one of the Managers.

Q. When did you first learn that the Trust paid a royalty, or that anybody paid a royalty to W. C. Smith upon car wheels and castings? A. During the examination before the Legislative Committee.

Q. Were all the castings obtained from the St. Albans Foundry Company after you became connected with the road as superintendent? A. Nearly all of them.

Q. Whether or not all or nearly all car wheels were obtained from the foundry? A. A great many of them were, but some were purchased elsewhere.

Q. Why were they purchased elsewhere? A. At one time all of the wheels were purchased elsewhere because Mr. Perkins, master mechanic, was not satisfied with those furnished by the St. Albans Foundry Company, and he purchased some elsewhere. In addition to that I got a lot of wheels from the Washburn Company. We had a contract with the Washburn Company for rails; the price of iron was getting up, and we wanted the rails delivered and could not get them. Finally the contract for rails was reduced, and I pushed them and got them.

as a lot of car wheels in place of the rails that he should have had under the contract.

Q. What was done with the old rails that were worn out and upon the railroads managed by the Trust? A. A portion of were sold to the St. Albans Foundry Company, and we sold as at Worcester, Nashua, and other places. A good many were at Worcester and puddled and put on the top of rails, forming what posed a better rail than the ordinary rail.

Q. What proportion of your old wheels went to the St. Albans company? A. I don't know; I should judge they took a half, perhaps I am mistaken.

Q. What price did they pay? A. Well, I don't know what was upon between them and Mr. Perkins. I think there was no price, but I don't know.

Q. Did the price vary from year to year? A. It varied from time, I think, as the price of castings did.

Q. What was done with railroad castings, other than car wheels? A. The St. Albans Foundry Company took a great many of them.

Q. Do you know what price the Foundry Co., or Worthington Co. allowed for old castings? A. I do not remember; the billing now.

Q. Did you ever make any examination or inquiry to ascertain the prices for old iron compared with the prices paid by other establishments? A. I did some time, I did on wheels, because a good many wheels.

Q. What about other castings? A. I don't recollect.

Q. Was the price paid for old wheels by the St. Albans Foundry the same price that can be obtained elsewhere? A. Well, about the same or we should have sent them elsewhere.

Court here adjourned till 2 p. m.]

WEDNESDAY AFTERNOON, AUGUST 4TH.

assembled at 2 P. M.

The following papers were put in by Mr. Walker:—

Statement of the cash receipts and disbursements upon the M. & N. Road, marked "Exhibit 34."

Statement of rent of the Vt. & Canada Road, and interest on floating indebted debt, by Mr. Willard, "Exhibit 35."

Alfred Coote, called by Mr. WALKER, being duly sworn, testifies:—

Q. What is your occupation, Mr. Coote? A. Assistant Clerk in Chief Clerk's office.

Q. How long have you been in the employ of the Company? A. We here in March, 1872.

Q. Then you were in their employ during the period covered by Ledger "I," which covers a period of 13 months, from Jan., '72, to July, '73? A. Yes, sir.

Q. In what way were accounts kept between the Treasurer's office in Boston and the General Office here? A. There was a set of books kept in Boston from which a monthly statement was rendered by Mr. Wilbur to the office here, and the balance was shown monthly.

Q. Was that entered in the books here? A. Well, the account of our ledger and Wilbur's account should agree, and I think they have always agreed. We had a general ledger account with him.

Q. Were the cash balances carried into your cash account? A. There was a separate account kept for him, as cash did not enter except for remittances.

Q. Then the voucher would be the receipt of the respective office that received the remittance from the other? A. Yes, sir.

Q. Each one of the leased lines had a set of books of its own, as I understand? A. Yes, sir.

Q. The expenses that were made upon each road would be charged to that road and would not appear in the general cash books? A. No, sir; each on their respective books.

Q. How often were balances transferred from the books of the several leased roads and operated roads to the general book? A. If you mean the balances of the cash books, they were transferred from all the Trust books first July, 1873; up to that time they were all together.

Q. But, previous to that time you had on the general books a separate account against each one of these leased roads? A. Yes, sir.

Q. In which their balances were carried? A. Yes, sir.

Q. How often were they carried in that way? A. There was no stated time. The transfer was made whenever it was convenient to do it.

Q. Once in six months? A. I do not remember distinctly.

Q. The vouchers for payments upon the leased roads were always kept entirely distinct from the general vouchers of the general books? A. Yes, sir.

Q. And many of these payments were made by Mr. Wilbur, in Boston, for the respective roads, were they not? A. Yes, sir.

Q. In what way were vouchers distributed? A. They were distributed by us here, each road being charged the amount that belonged to it. For instance, a Central charge would be made against the Central, and a Rutland charge against the Rutland, and so on, with all the roads.

Q. And in what way did the vouchers accumulate that he retained in his hands of the payments by those roads? A. I don't understand your question, sir.

Q. Well, Mr. Wilbur had a large amount of vouchers which are referred to upon his own series of books, had he not? A. I know nothing about any, except those which are on his books.

Q. Have you a lot of Wilbur vouchers here? A. Yes, sir; but they are entered on his books, and are kept separate as a matter of convenience.

Q. Why were they not distributed? A. All those vouchers here are Central vouchers, the others were distributed, and will be found on the files of their respective books.

Q. Then the Central vouchers will be found among those that are called the Wilbur vouchers, and kept distinct for convenience in reference to Wilbur's books? A. Yes, sir, that is it.

Q. How many vouchers are there on the Rutland Road during that year: do you remember? A. I could not say; the numbers vary greatly each year.

Q. Just look at the cash book and see number of cash vouchers, beginning at June 1st, 1872. A. Cash vouchers from June, 1872, are numbered from 1,743 to 3,013.

Q. And I suppose the general vouchers were about equal in amount, were they not? A. I think they numbered up to about 1,700, but I am not sure.

Q. Have you been in the office any time when the examination of vouchers was made by Pinkerton and Drury? A. Yes, sir.

Q. What vouchers were submitted to them? A. All the cash vouchers on the Central books.

Q. In what way could you ascertain whether or not the aggregate results as shown by the balance sheet of July 1st, 1873, is the correct result of the vouchers? A. Do you mean the cash payments?

Q. Whether the total cash payments and disbursements are correctly represented in the result shown by that balance, by checking the cash books or by checking the vouchers without reference to the cash books? A. Well, we had to be careful that we got cash vouchers only. Some cash vouchers appear in the journal. There are cross-entries generally between the respective roads, and most of these journal vouchers are cross-entries.

Q. In what way are receipts arrived at which are stated in the accounts which have been filed of the earnings of the various leased lines? A. The earnings are made up by the freight and passenger departments, and returned on the respective monthly statements.

Q. Take for instance June, 1872, in the cash account of the Rutland Road, does there anything appear there except cash receipts from stations and rents, &c., upon the line of the road? A. No, sir; nothing more on the cash book.

Q. And from what source are the accounts made up that enable you to give the total cash receipts, which are the share of that road, and the receipts that are accruing in the Boston and Montreal office, &c.? A. The divisions as represented by cash for freight are represented by Mr. Leard of the freight account's office, and the receipts for passengers by Mr. Cummings of the passenger department, and returned on the accounts. They make out a passenger account and a freight account, the cash road, and these are returned directly to the Treasurer's office.

Q. Did you prepare the statement which has been filed as "time; 26" showing the expenses, &c., of the S., S. & C. Road? A. Yes.

Q. This statement does not show, does it, the entire receipts? A. disbursements upon that road, but only what are called earnings like can expenses? A. It shows the earnings and operating expenses.

Q. Does it exhibit receipts from the wood business done upon that road? A. I think not, sir, as near as I can judge from the books. I made the statement from this book to show the earnings and receipts. The wood may be included, but perhaps it is not.

Q. What is the account on page 260, S., S. & C. ledger? A. It is a debit of Smith and Clark as Trustees of the Vermont Central Road.

Q. What does it show as its result? A. \$32,117.02 to their debit which they owe the S., S. & C. Road.

Q. Will you please see if that is carried into the next ledger? A. It does not seem to be.

Q. Will you look at page 279 of this book (handing him a book), and state what that account represents? A. Balance of account against D. C. Linsley, and under his name is written "Vermont Junction Railroad Company, 1863."

Q. How is the account balanced? A. By P. and L. \$2,279.2.

Q. What is the account on page 244? A. The M. & Vt. J. Ry.

Q. That is the account after the railroad began to operate, is it not? A. Yes, sir.

Q. What is the balance of the debit to that company in this book? A. \$25,325.15.

Q. Will you see if this is carried forward? A. I don't see that it is.

(These amounts were objected to by Mr. Walker on the grounds that he was unable to find that they had been carried forward into the account of the M. & Vt. J. Road.)

Q. (By Mr. Underwood.) Who kept that book? A. Mr. Fourdrinier.

Mr. Walker:—I call the attention of this witness to an item upon the Trust Journal I, page 446, which I believe has already appeared in the minutes, page 82; did you make that entry, Mr. Coote? A. No, sir; it is Mr. Knight's writing.

Q. Can you explain it? A. It is for the amount on these books before the S. S. & C. books were opened, the same not being entered on the S., S. & C. book; it was a charge entered in the S., S. & C. accounts on the Central books, which did not appear before the opening of the Central account on the S., S. & C. Road, that is before 1871.

Q. It was at that time then charged against the S., S. & C. Road on the Central books? A. Yes, sir.

Q. What is the next item? A. \$9,770 60; that was a remittance send here by Fourdrinier, the same not appearing on the Central account in the S., S. & C. books. The next is an item paid to Mr. A. B. Foster.

Q. To whom did Mr. Foster pay that amount? A. I presume in -mitted it to the Treasurer.

your). What is the marginal note on that page? A. "For difference between Vt. Central and S., S. & C. accounts—cause of this difference referred, being examined, this entry is made to adjust the accounts for nothing being."

Q. Was that ever been examined, and the account adjusted? A. They are e - now of, sir.
venience.

Q. Will you please ascertain whether or not the remittance was made by Foster and credited to him, or to the S., S. & C. Road; and so whether the amount against the M. & Vt. Junc. R'y, which accrued during the time of the operation of that road under the 50 per cent. provision, was charged against that road during the same period? A. Yes, sir: I will ascertain.

Q. Can you state by referring to Ledger I, page 551, the total amount which the Trust had advanced to Joseph Clark at the termination of this Receivership? Judge Poland: A statement will be furnished showing all the individual accounts of each receiver; that will show what you want to find out.

Mr. Walker: That will be satisfactory.

Mr. Merrill recalled by Mr. WALKER.

Q. Up to what time were you General Superintendent of this management, Mr. Merrill? A. The latter end of 1873.

Q. Will you look at voucher 724, and state to the Masters its date, and the price then paid for car wheels and castings to the St. Albans Foundry Co.? A. It is dated Aug. 6th, 1872. The castings are 5 cents per lb., and 33 inch freight wheels, \$24 60.

Q. That was the uniform price at that time, was it not? A. I presume so, sir.

Q. Will you look at these vouchers—1380—81, and 1821—and state what the Trust were then paying to the Rutland Foundry and Machine shop for car wheels and castings in May, '72? A. "10 car wheels, \$23 each; 172 at \$22 each; 30 at \$23 each; tender and truck wheels, \$22 each; castings, (kind not specified) 4½ cents per lb.

Q. What amount was allowed by that concern for old iron? A. Two cents, as shown by one of these bills.

Q. What kind of iron were these wheels made of? A. As stated on that bill, Richmond and Salisbury pig iron, made expressly for car wheels.

Q. What amount was allowed by that concern for old wheels as shown by voucher 1047? A. Two cents one of these bills shows, and another 1½.

Q. What amount was paid in September, '72, to the Washburn Iron Company for 33 inch wheels? A. \$19.

Q. What amount was charged the Rutland Road as appears by voucher 804 for what is called "Globe oil?" A. Fifty cents per gallon. That is the price charged to the Rutland Road by the Central.

Q. Do you know what the Central were paying? A. I do not; the bills will show. It was purchased by the Central and sent over there I presume. The Central bought quite large quantities.

Q. Who was in charge of the finances at St. Albans during the last year of the Trust management? A. Mr. Wilbur.

Q. Was not he in Boston? A. He was here part of the time; he and Mr. Thorndike.

Q. Have you any knowledge of that voucher, 1861, for \$500? A. No, sir? I see a note here: "No voucher; Treasurer Thorndike can explain."

Q. Will you please look at voucher 1738 ; does the price charge per mile there include for use of locomotive, engineers, firemen, oil and waste upon the regular trains extending on the Addison Road to Port Henry ? A. Yes, sir ; the price is 30 cents per mile.

Q. What amount was charged them for fuel per mile ? A. Twenty cents.

Q. What amount was charged them for the use of a passenger car per mile, and baggage car per mile ? A. Five cents for passenger car and 3 cents for baggage.

Q. Did that arrangement extend over a period of several months ? A. Not very long, I think.

Q. What is the New York and Canada Road ? A. It is a road on the west side of the lake, being constructed to run in opposition to this line, as an extension of the D. & H. C. Co. ; the engines and train men had short distances to run, and as it was an opposition road acting against the Central Road, the price charged was what we could get.

Q. Was it an opposition road at that time ? A. Practically it was. It extended from Ticonderoga to Port Henry.

Q. Did you not receive from it a lot of freight and passengers ? A. Yes, sir.

Q. There was no road from Ticonderoga to Whitehall ? A. No, sir.

Q. How far was it from Ticonderoga to Port Henry ? A. Seventeen miles.

Q. (By Judge Poland.) This price that you charged was more than the ordinary price was it not ? A. Yes, sir, for a short time.

Q. Whether or not was that an exorbitant price you charged ? A. Well, it was a good paying price.

Q. In this connection please refer to page 138 S. S. & C. journal, and state what was the amount charged the M. & Vt. J. for services of engineers, firemen, etc., per mile ? A. Five and a third cents.

Q. (By Judge Poland.) Was that the usual customary charge ? A. That was just about what it cost.

Q. (By the same.) Did the same engineer and fireman run over both roads ? Yes, sir.

Q. I call your attention to the office pay-roll at St. Albans, voucher 207 ; whose salaries does that pay-roll cover ? A. Mr. Hobart, Mr. Foss, Mr. Lucas, Mr. Arnold, Mr. Hatch, Mr. Forbes, Mr. Stanton, Mr. Appleton, Mr. Hunt, Mr. Sessions, Mr. Harris, Mr. Elliott, etc. ; total amount, \$2,341 63.

Q. Who is Mr. Hobart ? A. He was General Freight Agent then. Mr. Foss, Master Mechanic ; Mr. Lucas, Auditor ; Mr. Arnold, Divisional Superintendent ; Mr. Forbes, Chief Clerk ; Mr. Elliott, Passenger Agent ; Mr. Appleton, Ticket Agent ; Mr. Hunt, Paymaster ; Mr. Sessions, Master Car Builder ; Mr. Harris, Assistant Paymaster ; Mr. Stanton, Chief Clerk to Superintendent.

Q. Are there any of these gentlemen who did not involve more or less business with the Sullivan Road ? A. I presume the Superintendent had something to do with that road.

Q. With regard to the shops: I presume that the Sullivan road was charged for all the labor and stock furnished them? A. Yes, sir. The prices are supposed to be high enough to pay all expenses connected with it.

Q. Who fixed those prices? A. The Master Mechanic's Clerk, Jr. Camp.

Q. Who is the Master Mechanic now? A. Mr. Foss.

Q. How long has he been Master Mechanic? A. 5 or 6 years.

Q. The stock account is one in which there should ordinarily be a profit from year to year, is it not? A. Yes, sir. I suppose there is a profit.

Q. Upon what pay-roll does the clerical force employed under these general heads of departments, as shown upon this pay roll, appear?

A. Upon the General Pay-roll.

Q. About how much per month does the pay-roll of the clerical force amount to? A. I could not tell you, sir.

Q. Could not you approximate it? How many were there, do you think? A. I think at first there were three in the Freight office, and one in the Passenger office, besides Mr. Elliott; but as the different roads were taken on, the number of clerks necessarily increased proportionately. Probably there are now six times as many.

Q. Were there not a number of clerks in the Treasurer's office? A. Only two, sir; one clerk and Mr. Thorndike.

Q. Was there a cashier? A. Mr. Thorndike acted as cashier at that time.

Q. Who opened the packages and counted the money for sold tickets? A. I presume the Treasurer.

Q. Was any part of that pay-roll apportioned to the Sullivan Road? A. I don't think it was, sir.

Q. What has been the custom, Mr. Merrill, in regard to payment of expenses of employees when away from home on the business of the road? A. The road has generally paid their expenses.

Q. Has that been true of the expenses of the Trustees and Managers? A. Yes, sir.

Q. Of course in addition to the sums charged in the general books, these expenses would be charged to the General Expense Account, would they not? A. I don't know whether they would be charged here or to the Trustees' Private Account.

Q. What has been the custom of the road in relation to the transportation of freight for the personal use of the Trustees, or Receivers and Managers? A. I don't know, sir; that comes under the Freight Department business.

Q. Don't you know whether or not freight has been paid by them?

I don't know, sir. I think they have paid freight, but whether they have always paid freight upon everything carried for them, I don't know; very likely they have not.

Q. I understood it was a rule to carry such freight free? A. Not my knowledge, sir.

Q. Will you look at voucher 314, and state what that is. A. Noting High Bridge Depot at Claremont, \$24 00.

Q. To what account was that charged? A. Central.

Q. Should it be charged to the Central or Sullivan Road? A. To the Sullivan, I presume; but it does not appear to be. It is entered in the car shop, and is perhaps charged at the car shop to the Sullivan Road; I have no doubt it is charged to the Sullivan Road on the shop stock books.

Q. There is nothing on that voucher to say that it is so charged. is there? A. I don't see anything, but if it was not so charged it is a mistake.

Q. What was the occasion of the employ of Mr. Burland, to whom \$100 per month was paid at St. Johns? A. He is the Canadian customs officer there. The Canadian laws require all roads sending freight into Canada to pay Customs expenses: that is, to pay a proper officer for examination and entry. He was the head Customs officer for that district, and he was paid the gross sum of \$100 per month, and that included the amounts to be paid to the men under him.

Q. In what capacity was Mr. Sprague employed in 1872? A. He was bridge master, I think. We had a Mr. Sprague bridge master.

Q. Over what road did his jurisdiction extend? A. Over a portion of the Central, Sullivan, Vt. Valley and Vt. & Massachusetts, I think.

Q. Please look at voucher 167, and state what his salary was. A. \$1,800 per annum.

Q. You employed a man by the name of Chittendon, did you not? A. Yes, sir, we did.

Q. A sort of detective in freight matters, wasn't he? A. Well, he looks after freight cars.

Q. I understood that he was a freight detective. A. Not that I know of, sir.

Q. For what purpose was Mr. J. McCarty employed? A. The same purpose.

Q. Did their jurisdiction extend over the Sullivan Road? A. Not in any other way than that they passed over it; they were looking after the cars of the Central and Ogdensburg Roads.

Q. I was told one of them was a detective; perhaps I am misinformed. A. I don't think he is a detective, sir.

Q. Mr. Merrill, was there any charge made against the Sullivan Road for the salary of Superintendent of bridges, or for those engaged in looking up lost baggage, freight, &c.? A. There was no one looking after lost baggage properly, except in the office here. Perhaps there was occasionally a charge made for expenses of bridge master; I think a bill was occasionally rendered by him for work on the Sullivan Road.

Q. It has been the custom, has it not, Mr. Merrill, from time to time to make occasional allowances by way of an extra allowance of compensation for extra services for Foss, and Mr. Tinker, and various other gentlemen connected with the road? A. I don't think Mr. Foss ever had any, sir. There is a bill Mr. Foss rendered when he came on the road: he was employed at a salary of \$300 a month. I think that was it, and I believe it was to be increased a hundred

year till it came to \$400. The monthly bills of Mr. Foss were not increased as they should have been, and he put in at the end of the time enough to cover it all. It was not an extra allowance the company made to him, but only an amount that it was arranged he was to have. Mr. Tinker had some extra allowance; he had asked for more pay, and in order to avoid paying him more on the pay-roll, and letting others who were with him see what he received, they paid him on a separate bill; others in the office might, if they saw by the pay-roll he had received an increase, consider themselves entitled to the same benefit, consequently we adopted this means to prevent the increase being generally known by the other officials.

Q. Mr. Hunt had some extra payments, did he not? A. I don't recollect, sir. He may have received extra pay for some reason, probably having extra work to do.

Q. Voucher 105, do you recollect what business of the road that was connected with? A. It was attending to a witness at Keene, N. H. I think it was a case of a car of cattle lost or damaged between here and Charlestown, Mass. I think it was a suit against the Trustees.

Q. Are you sure about it? A. Well, yes, I am.

Q. Who was Mr. A. M. Shaw? A. He was employed as road master on our roads.

Q. In the construction of the Waterloo Tramroad, I find his receipts for various sums of money. Who audited his accounts? A. I don't know, sir. I presume Mr. Lucas, the auditor, examined his accounts: I don't remember distinctly.

Q. Please state the meaning of voucher 941? A. That is for a portion of wages to a night telegraph operator at Bellows Falls—\$40 per month, Vt. Central proportion of \$80, as per agreement. It was necessary to have a night operator there to attend to the movement of freight trains, &c.

Q. To what account was that charged? A. To Central account. His services in the night were in order to facilitate the running of trains over the Central, Sullivan, Rutland, Valley and Cheshire Railroads.

Q. Voucher 593; what is that for? A. It is a contribution for the purpose of improving a camp ground, building, tenements, &c.—Northfield camp meeting—\$180.

Q. Please state what voucher 1225 is for, and to what account it is placed? A. It is for 42 meals—\$21. That was for meals that were furnished Governor Smith and W. C. Smith and party; charged to Vt. Central expense account.

Q. Voucher 1328, Montpelier, Nov. 27th, 1872; what is that for? A. \$228 60, expense of Jo D. Hatch, of Montpelier—bill of Pavilion Hotel—charged to general expense account.

Q. Voucher 1585—who was Mr. E. Root, mentioned in that voucher? A. He was Gen. Baggage Ag't. This voucher is for repairs on the "Oakes Ames"—\$1,500. Mr. Root was Sup't of the Champlain Transportation Co.'y, also.

Q. Voucher 1579; please tell the Masters what that was for? A. It is a bill due from J. M. Gliddon, \$164 12. Mr. Williams can explain that. I don't know anything about it except that it seems to be a memo-

random which enters into the account as due from Mr. Gliddon.

Q. And it is put in as a voucher of payment? A. Yes, sir. I expect it is an amount that was allowed him. He was agent for the purchase of wood and ties on the Sullivan Road.

Q. To what account was that item passed? A. Mr. Williams can tell; I don't know.

Mr. Williams called and sworn.

Q. Can you explain this voucher, Mr. Williams? A. Yes, sir. I sent Mr. Gliddon some six or seven thousand dollars to pay wood bills due for wood purchased in the vicinity of the Sullivan Road. The bills, at the time, were largely overdue, and I had to send him more money than the amount that would be sufficient to pay the bills, as I had to allow for interest. He returned the bill, leaving this amount of \$164 12 in his hands, which he told me he was to account for in paying some other bills. He did not account for it, and had not done so up to the time I left. I turned it over to Mr. Thorndike. Mr. Gliddon was to have returned that amount, and this voucher represents so much money against him. I saw Mr. Gliddon some time after and called his attention to the matter. I presume that was put in as a voucher by Mr. Gliddon before the settlement. Armington & Bishop were the parties to whom Mr. Gliddon had to pay the amount for wood.

Examination of Mr. Merrill continued.

Q. Voucher 1578: "Received of the Trustees and Managers of the Vermont Central Railroad \$250, A. Forbes." There is also an amount of \$409.25; there is evidently something left out; it says, "Paid on this \$190.75, S. W!" A. I have no knowledge of that. Mr. Williams can explain perhaps.

Mr. Williams called: It was for money I let him have by the Governor's direction. It was to apply on account of salary. He was claiming an increase of pay, and they had not determined what to do, how much to allow him; and the Governor told me to let him have the money. That is my recollection. There were two amounts that I let him have, and paid \$190.75 on the first. My impression is that the other amount is one that was allowed him by Mr. Taylor's directions. I know he paid back \$190.75.

Q. And the receipt he kept, and that voucher he put in for it? A. Yes, sir; Mr. Forbes afterwards died. That was the reason I presume that it was left as it was.

Q. Voucher 1600, dated December 23d, 1872, signed by W. C. Smith; what is that for? A. On account of services, \$1420.23.

Q. Please examine voucher 1601; what is that for? A. That is a bill of the Trustees against D. C. Linsley for material, \$31.02, and \$1000 to disburse and account for. The material, I presume, was furnished him from the road, and charged, and that is the bill for it.

Q. What is the total amount that this voucher is put in for? A. \$2413.79.

Q. Is there any such voucher for any such sum there? A. There is a letter here from Mr. Linsley attached to the voucher in which he says, "I will return the \$300 gold in kind."

Q. Do you remember what you paid that \$1000 to Mr. Linsley for? A. I do not remember, but I should judge it was when this depot was being built. That was in 1866. I had charge of the construction of this depot.

Mr. Walker:—The entry is at page 564, ledger I; Mr. Linsley is charged cash \$2413.79, with a further voucher that I hold in my hand, No. 1602, for 4007.75, with an entry from car shop \$1263.70; he is credited by depots \$5500, and the balance still stands against him \$2185.24.

Q. In Mr. Linsley's letter attached to this voucher there is a Mr. Churchill & Co. mentioned; were they the contractor's for building this depot? A. They were not; it was not built by contract. They were lumbermen in Burlington.

Q. Did Mr. Linsley have anything to do with the building of the depot? A. He had charge of the work as chief engineer of the road.

Q. Did he make the disbursements? A. He did some of them, sir.

Q. Was there an account with him on the books for that purpose? A. I think the money was paid to him, and he returned what money was not disbursed, and gave in his receipts for money expended as vouchers.

Mr. Williams:—This is the way that account occurred. It was money he had from to time time, that was the balance, and it was turned over.

Mr. Walker:—That credit on Ledger I, page 564, is depots \$5,500. There is an entry in Journal I, 403, "D. C. Linsley's error in charges and cash, May 26th, July 27th, Oct. 9th, Nov. 12th, 1866, \$5,500." These charges are all of them 5 or 6 years prior to charge which they are set against in this ledger. Voucher 1,601 was a bill against Linsley for \$31 02, and in the second place is a receipt signed by Linsley for \$1,000 he disbursed and accounted for, and it is put in as a voucher for \$2,413 79.

Q. Can you account for the disposition of that money, or can you account for the difference in the amount shown by the vouchers, and the actual amount they are supposed to represent? A. I cannot, sir; possibly Mr. Williams can explain it.

Mr. Williams:—At the time the depot was being built here, we from time to time let Mr. Linsley have money, and took his receipts for it. The amount was some ten or twelve thousand dollars; he would bring in vouchers for what he expended and there was this balance left against him, \$2,413 79. There were quite a number of receipts; I passed them all over to Mr. Thorndike, with a statement of the account against Mr. Linsley showing the amount due from him.

Q. Doesn't Mr. Linsley deny that he owes the Trust anything? A. I don't know, sir. He never disputed this account, although perhaps he may claim that they owe him money on another account.

Q. Mr. Williams, will you look at voucher 1602, and say what is your recollection of the matter? A. This voucher is Linsley's receipt for \$4007 75. We paid him a note to that amount at the time of the account.

Q. Then, as it stands now, if Mr. Linsley was charged in 1872-3 with \$7,685, and the credits against it are only \$5,500—correction of errors—there would be some \$2,000 still claimed to be due from him. I think that requires some further explanation, but that will do for the present.

[The entries of this account were afterwards explained to Mr. Walker by Mr. Williams.]

Examination of Mr. Merrill continued.

Q. Mr. Merrill, I show you voucher 1603, dated Dec., 1872; what is that for? A. \$49,884 59, amount in the hands of J. Gregory Smith during the past year.

Q. Voucher 1604, dated December, 1872, for \$4,543.54; what is that for? A. Same as the preceding one.

Q. What was your salary during the the year 1872, while you were in the employment of the Trust? A. \$6000 per year.

Q. For how long did you receive that salary? A. I don't know sir; the last two or three years I was on the road.

Q. Did that include the Sullivan money? A. No, sir; that was in addition.

Q. Please look at voucher 1480, dated March, 1873; what is that for? A. To Horseford & Sons, for engraving pass; that is for engraving plates on which passes were printed from year to year.

Mr. Walker:—Under the account of legal expenses, in ledger I, page 222, there is a payment made by H. B. Wilbur, November, 1872, \$1000, for which these vouchers have been furnished which I wish to put in: No. 915 and 916, J. G. Abbott, \$500; J. Curtis, \$500; 915 is received of the Manager and Trustees of the Vermont Central and Vermont & Canada Railroads, \$500, retainer in the affairs of the Trust, "J. G. Abbot, November 2d, 1872." No. 916 is received of B. P. Cheney, by the hands of J. G. Abbot, \$500, retainer in matters of Vermont Central Railroad Company, B. R. Curtis.

Q. Voucher 580; what is that? A. That is for legal services, "Luke P. Poland, \$500."

Q. Voucher 586; what is that for? A. That is for the sum of \$25 for drawing up a settlement in connection with the accident on the Sullivan Road. See exhibit No 1.

Mr. Walker:—I object to that item on the grounds that it is charged to the Trust and not to the Sullivan Road.

\$100. The next item in the legal expense account is B. B. Smalley, paid furnish 24th, 1873, \$100, for retainer. The next item is to Noble &

\$1,540 50. Paid \$500 to E. Dewey; Benton & Irish \$100.

Q. Amount of \$25 paid to Augustus Ross was settled by Mr. \$2413.79. it may have gone into the books without his seeing it. is January, 1873, Noble & Smith, \$400; Chapman, \$100.

The next charge in the legal expense account is February, 1873, D. B. Meigs, \$42.

Q. Do you know what that is for, Mr. Merrill? A. I do not, sir. Governor Smith tells me it was for damage to a barge belonging to Meigs at St. Johns.

Mr. Walker:—The next item is November, 1872. James Clark, \$100; J. B. Farnsworth, \$10. May, 1873, Noble & Smith, \$90. Another item, May, 1873, \$50, for which the name does not appear.

Q. Mr. Merrill, where is the Northern Advocate published? A. Claremont, N. H.

Q. To what account was that item of advertising charged, represented by voucher 2978, for \$15 00? A. To the Vt. Central account, Jan. 27th, 1873.

Q. Voucher 2867; state what that is for, and where it was charged? A. Albert H. Tuttle, Rutland, advertising, \$6 00, charged against the Central Vt. Road.

Q. Was that paid by the Trust? A. It appears to have been, though it may have been taken out by a cross entry afterwards.

Voucher 1900, Jo D. Hatch, July 2d, 1873; what is that for? A. Traveling expenses during 1872,—that is, expenses as General Agent.

Q. Voucher 1803, what is that for? A. George G. Hunt, services as Paymaster, from the 1st of April, 1871, to Feb. 1st, 1873, \$58 33 per month, "in addition to what I have received before."

Q. Is that in addition to his pay as shown in the Pay-roll? A. I presume it is.

Q. Voucher 1555; what is that for? A. Childs, Crosby & Lane, for carpeting, &c., for Treasurer's office in Boston, \$614 11,—Jan. 1872.

Mr. Walker:—I wish to call attention to several vouchers, which I understand to be expenses of the Bondholders, at their meeting at the Horticultural Hall. Voucher 1554, sundry advertising bills; also, paid excursion party \$105, Welden House; also, to Wilbur. Voucher 1545, to C. C. Coffin for report of Horticultural Hall meeting, for map in report, \$63 75; and to a further item, L. Millis, to various hotel bills, \$551 25; also, rent of Horticultural Hall for 2 days, Oct. 2d and 3d, \$300; and various items to the Press Association.

Q. Do you know what rent was paid for the Boston office in 1872? A. I don't recollect, sir.

Q. Will you look at Journal I, pages 309–10–11, and say what that is? A. Purports to be payments to L. Millis of expenses of Boston agency.

Q. State if you can the total expense, as represented on that account, for the period from March, 1872, to Nov., 1872? A. Including the Montreal agency and other things, it is \$37,861 24.

Q. How much of that is charged to the Boston agency alone, and not to the other roads? A. \$1,842 50.

Q. Does that include the New York agency from March to Nov.? A. It does, and also the Montreal agency. The Montreal agency was reckoned part of the Boston agency, and the business was done by Mr. Millis through the Boston agency—they were both under his management.

Q. Did he also have the management of the New York agency ~~and~~ that time? A. He had.

Q. Can you tell by looking at voucher 1424 the total expenses of that agency as charged among the different roads? A. \$1784.80.

Q. That includes charges against the Boston agency in favor of the New York agency from May, 1872 to 1873, does it not? A. Yes, including May 13 months.

Q. Does not the journal entry contain charges against the Boston agency in favor of the New York agency from March, 1872, to November, 1872? A. Yes, sir.

Q. I notice, Mr. Merrill, that in this bill of Mr. Millis, voucher 1424, the Sullivan Road is charged a certain proportion of the Montreal and New York agency contained in that bill. I notice that in the journal charged the expenses of the Boston, New York and Montreal agencies. There seem to be no charge against the Sullivan Road? A. It may be charged in the Sullivan book as a cross entry.

Q. Mr. Merrill, there was bought from time to time real estate for the use of the Trust during your superintendency, was there not? A. Yes, there was.

Q. In what form were the conveyances taken? I think through the Trustees and Managers generally, some through the Vermont & Canada.

Q. Should not these have been charged to the Vermont & Canada? A. Yes, sir, I think they were except that it should be like in the case of a gravel pit.

Q. Who had the management of the rent of the various outside property belonging to the Trust? A. I don't know that there was any purchased that were tenements. There was one at Randolph; the house stood on a gravel bank, and was taken for the use of the road.

Q. Do you know what rent was paid for the restaurant in this building up to July, 1873? A. During the earlier part nothing was paid; during the latter part of the time I think \$100 a year was paid.

Q. Can you ascertain for how long nothing was paid? A. Well, sir, I don't remember when Mr. Dunton, the present proprietor, came in, but he commenced paying rent at the time he came in.

Q. Will you look up ledger I in connection with the cash book and ascertain whether any thing was received for rent during the time covered by the Trust. A. I find that the rent of the restaurant began as early as June, 1872; the monthly rental was \$88.33.

Governor Smith re called by Mr. WALKER.

Q. I observe by your statement in relation to the Trust Loans that the bonds were sold at a uniform price of 9 per cent. discount? A. Yes, sir.

Q. Some at 10 per cent., were there not? A. Yes, sir.

Q. How many of the bonds did you take at that price? A. I took \$100,000, Mr. Clark \$100,000, and Mr. Cheney \$100,000.

Q. Of course you received interest on the par amount of these bonds? A. Yes, sir; we sold a million of bonds at that time, and those that come forward to subscribe were on the recommendation of the

bondholders at that meeting at the Horticultural Hall composed of Lemuel Shaw, Mr. Bailey, Mr. Converse and Mr. William Perkins.

The committee at the second meeting recommended the Receivers to come forward and take these bonds at 90 to start the subscription. The committee was in consultation with the receivers, and said that unless we came forward and started subscriptions on that basis that it would be very difficult to negotiate the Loan.

There was a question raised in regard to the validity of the issue and on this an opinion was given by Judge Curtis and Mr. Abbott, for which you have seen the bills, as to the validity and propriety of these bonds over the Vt. & Canada, and the first and second mortgage bonds.

Q. Have you that opinion, and will you furnish it to us? A. I will. On the strength of that the Committee desired that the Trustees and Managers should take some of these bonds to start the subscription, and it was agreed among us that if they and the security holders would take \$100,000 we would subscribe each of us and pay in \$100,000. On the strength of that we took \$100,000 each.

Q. You paid up yourself, did you not, by turning in Central notes against the Trust? A. Well, I paid some cash; besides, I held notes for money loaned to Mr. Wilbur at times. I think that was in cancellation of my claim to some extent, and to balances in cash. It was all money that I paid or equivalent to cash.

(Mr. Walker.) I put in an entry in Journal I, 284, in relation to the purchase of these bonds by the Governor. He was charged with \$100,000 for the bonds, and \$2,533 33 accrued interest, and \$236 67 further on the interest of the account, making \$102,770. He was credited with sundry notes given \$101,955 02; interest due on these notes \$5,561 98, discount 10 per cent. on 100,000 bonds \$10,000, making a total \$117,117.

Q. I see charged against you, Governor, several amounts represented by shop stock bills from Jan., '61, to Jan., '72, amounting to \$1,291 90, voucher 1675, Journal I, what do these bills represent?

A. I suppose they are the ones representing what material I had from time to time, and which has been charged to me as they were delivered in the books in the departments. Whatever material I have had, such as lumber or iron work, or labor done, the bills were charged to me at the time of the Investigation before the Legislative committee, and all the bills were charged on the books.

Q. (By Mr. Walker.) Was there any interest charged against you for that amount? A. I don't think there was; I don't know.

Q. Have you obtained the paper for which you were to make search containing the estimated cost of the M. & Vt. Junc. Road that Mr. Drury had? A. No, sir; I have not.

Mr. Willard suggests I should also put in the entry at journal I, 285, showing Clark's purchase of the extension bonds. He is credited in 1873 with notes payable as follows:—

Sundry notes - - - - -	\$108,331.03.
Intrereest on the same - - - - -	2,251.66.
10 per cent. discount on the bonds - - - - -	11,110.00.
He is charged with extension bonds sold him -	111,100.00.
Interest on the same accrued - - - - -	1,826.67.
Cash paid to him to balance account - - - - -	2,765.72.
Making on both sides - - - - -	115, 692.69.

Q. Governor, there is no account, of Mr. Cheney on the ledger; do you know whether he paid for his bonds in gold or notes? A. I don't know, sir. Just before that transaction Mr. Cheney, Mr. Clark and myself had each of us raised something over \$100,000, for the Trust, loaned it, and took their notes for it.

Q. And these extension bonds were made on purpose to take up their short paper; is not that so? A. Yes, sir.

Q. And had three years to run? A. Yes, sir.

Mr. Merrill re-called.

Q. Voucher 1056, amount to Washburn Iron Company; what is that for? A. Iron re-rolled at \$35 per gross ton, with a rebate of \$4, making the price \$31.

Q. Can you tell what was paid the Rome Iron works in August, 1872, for the same service? A. \$24, sir.

Q. What price was paid for oil in 1872, delivered at Toledo, as shown by voucher 1024? A. 47½ cents. That amount was paid to the West Virginia Oil Co.

Q. What price was paid the St. Albans Foundry Co. for castings, and what did they allow for old scraps in April, 1872? A. 5 cents for castings: old scraps 1½ cents.

Q. What did they allow you for old wheels at the same time as appears by this voucher, 887? A. 1½ cents for old wheels.

Q. Who is G. L. Stone? A. He was division superintendent of the Northern division; that is from here to Waterloo and Richford.

Q. Were his head-quarters here at St. Albans? A. Yes, sir.

Q. Please state what he paid for the dozen arm-chairs, as depot furniture, as shown by voucher 820. A. \$66—\$5½ each.

Q. What is that bill for, voucher 836? A. For furniture; for a map rack, for some rollers. &c., \$80.

Q. Was that map for here or for the Boston office? A. For here, I should say. The other item is for one fancy table, \$75.

Q. Voucher 862; where was the furniture mentioned in that bill taken? A. Where it went to, do you mean? It went to H. B. Wilbur's office, at Boston.

Q. What was the furniture? A. One sofa, one rotary, \$309; 4 arm-chairs, \$33 each, loose check covers, \$27.

[Governor Smith here read the opinion of Curtis & Abbot, mentioned in the foregoing testimony.]

[Court then adjourned till 9 P. M., Thursday morning, the 5th.]

THURSDAY MORNING, AUGUST 5TH, 1875.

Court assembled at 9 A. M.

Mr. Gyles Merrill re-called by Mr. WALKER.

Q. How many miles does the M. & Vt. J'ct. run over the road of the S. S. & C.? A. I think about $2\frac{1}{2}$ miles.

Q. Don't you know the exact distance? A. I have known, but I forget now. I can ascertain.

Q. Don't you remember that it is $2\frac{1}{2}$ miles? A. It may be that on the time-table, but I presume that is not exactly correct.

Q. Do you remember a bridge called Pike River Bridge, on the M. & Vt. J'ct. Road? A. Yes, sir.

Q. Is that the one which Gov. Smith testified had to be built three times? A. Yes, sir. The first was a trestle bridge that broke down, and a new one was built, which had to be rebuilt.

Q. How long was that bridge? A. I don't remember. A portion of it is trestle work. I can ascertain the length if you wish to know.

Q. Is it as long as the bridge on the Missisquoi Branch? A. I think the trestle was as long, but I fancy the bridge itself is longer.

Q. Do you know the maximum grade of the Trust roads from Rouse's Point to Windsor? A. About 50 feet, I think.

Q. At what point is it that grade? A. At a number of points. I think there is no grade above 50 feet. It has been estimated at 58 feet, but I think 50 feet is the maximum. I think the engineers found nothing higher than 50 feet.

Q. At what time was that? A. Four or five years ago. I have had no time to verify it. Mr. Bailey told me and his assistant told me also that they found no grades greater than 50 feet.

Q. (By Mr. Dennison). How long is the Roxbury grade? A. It varies, sir. Between Northfield and Roxbury there are a number of

points where the grades are less, but from one to two miles out of North—field it is a heavy grade. The worst point is about two miles this side — of Roxbury, near where we have to cross the bridge,—the train draws—hardest there.

Q. Then the summit is about Roxbury? A. Yes, sir, just this—side of the station.

Q. How many loaded cars do you draw with a single engine? A—That depends upon the loading. About 18 cars of dead heavy freight, but a good deal more than that of live stock.

[Mr. Walker here wanted to examine Mr. Stranahan, but it was argued that Mr. Stranahan's evidence as reported in Report of Investigating Committee, pages 76 and 117, should to be put into the case.]

Mr. Walker:—I call attention to the act of incorporation of the National Car Co., to be found in the Sessional Laws of 1868, page 109; also, the authorizing of the National Car Co. to increase its stock, page 194; also an act incorporating the V. I. & C. Co., Sessional Laws of Vermont, 143 to 197. The original stock of the National Car Co. was \$500,000. The subscriber's names are to be found on page 78-'9. The Directors for 1872 were L. Millis, S. R. Langdon, J. W. Hobert, J. D. Hatch, M. Hall Stanton, N. E. Phillips; L. Millis being president of the V. I. & C. Co. I wish to put in a list of stockholders to be found on page 111, Report of Investigating Committee.

[Mr. Walker then proceeded to read all the facts in relation to that company with the amount of original subscriptions.]

Mr. Stranahan's evidence before the Investigating Committee was also read by Mr. Walker from the Report.

The Report of the Investigation Committee, it was agreed, should be put into the case wholly, with a mark against any part to which it was desired to draw attention.

Court adjourned until 2 p. m.

THURSDAY AFTERNOON, AUGUST 5TH.

Mr. Merrill re-called by Mr. DAVENPORT.

The following vouchers are from cash book F:—

Q. I show you voucher 54, dated June 28th, 1865, signed W. Davis, for \$750. Who is W. Davis? A. An attorney.

Q. Was he an attorney for or against the Trust? A. I think against the Trust. I don't know that I ever saw him.

Q. Did you pay that bill? A. I presume I did. My endorsement is on the back.

[Judge Poland explained that the amount was part of the legal expenses which were paid by the Trust under the compromise decree.]

Q. I show you voucher No. 55, for \$750, signed Joseph Andrews. Do you know who Joseph Andrews was? A. He was one of the Committee of Bondholders' Auditors. I should Judge that amount was for his services in that capacity.

Q. What are the duties of that Auditing Committee, so far as you have any knowledge on the subject? A. An examination of the vouchers and accounts of the road here.

Q. Have you ever been present when this committee performed that auditing? A. I have.

Q. What did they do? A. Examined all the bills and vouchers, and compared them with the cash book.

Q. That is they examined entries upon the cash book and saw the vouchers which supported these entries? A. Yes, sir. I should judge they examined the vouchers through.

Q. How much time did they spend in that operation? A. I don't know: quite a number of days each year.

Q. Did you ever know them to make any objections of any item? A. I have known them to question several items.

Q. Did you know them to really object to any items during all the time you were here? A. I don't recollect. I might not have known it if they had.

Q. You said you were present when they made their examination? A. Well, I was present whenever they wanted me to explain anything to them.

Q. Who was R. W. Chase? A. He was an agent of the road looking after freight business.

Q. Where was he located? A. He lived at Burlington, and went to different points over the road; he was looking after the competing business of the roads.

Q. Doing the same business as Mr. Hatch and Mr. Smalley were doing there? A. No, sir. Mr. Hatch was not looking after the freight business.

Q. Then Hatch had nothing to do with the freight business? A. No, sir. Mr. Chase had been employed at Burlington formerly as station agent on the Rutland Road; when he left there we employed him on the Central Road; we considered him a good man for the business because he had experience with the Rutland Road.

Q. I show you voucher for \$25, signed by R. S. Taft, May 6th, 1865: what is that? A. It appears to be a general retainer in matters connected with the roads.

Q. Who was it paid him that retainer? A. I presume in the first instance it was paid by Governor Smith, and we paid him.

Q. Does not that voucher show that he was retained by Jo D. Hatch? A. It says, "Received payment by the hands of J. D. Hatch;" probably he may have paid the bill; I suppose he did.

Q. Does that satisfy you or not that part of the business of Mr. Hatch was to retain attorneys? A. I know it was part of his business to consult with attorneys.

Q. Have you any knowledge of any professional duties which Taft ever rendered to the Trust? A. I don't know that I have.

Q. I show you voucher No. 183, for \$8,963 63, endorsed M. & Vt. Jct. R. R., and ask you what that is? A. It seems to be a bill of M. K. Jessup & Co., for some rails supplied to the M. & Vt. Jct. R. R., and purchased of that road by the V. C. R. R., as I judge from a memo-

random I have. I think the M. & Vt. J. R. R. purchased a lot of rails of Jessup & Co., and the Central Road took about $74\frac{1}{2}$ tons of them. I find that the Central at that time had a quantity of rails of Ebwy Vale make, and I judge by the bills that these are the ones; my memorandum corresponds with the date and quantity.

Q. Then it is a bill of rails that the Trustees and Managers of the Vt. Central Road paid Joseph Clark and J. Gregory Smith for, is it not?

A. They paid the M. & Vt. J'ct. Road for the rails, I presume. The receipt is signed Managing Directors of M. & Vt. J'ct. Roads.

Q. What is the memorandum you just spoke about? A. In the list of rails delivered to the Central Road in the year 1865, I find Bay State rails and also Ebwy Vale rails, $74\frac{1}{2}$ tons—say 400 rails. This book was my memorandum book at the time.

Q. I now show you voucher 243, May 16, '65; what is that for? A. To Messrs. Kimbel & Cabus for furniture.

Q. Please read what the articles are? A. The articles are

One couch, green plush,	\$ 85 00
Two arm chairs, \$48 each,	96 00
Two chairs, \$30 each,	60 00
One centre table,	50 00
Four spring-bed chairs, \$85 each,	340 00
One Spanish chair,	65 00
One looking-glass and frame,	48 00
Two looking-glasses and frames, \$45 each,	90 00
Five boxes and packing,	36 00

\$870 00

Q. Where did the articles mentioned in that bill go? A. I think into the Directors' Car.

Q. What was that Directors' Car for? A. It was called the Directors' Car because it was constructed for the Directors' use.

Q. Who were the Directors that it was constructed for? A. The Managers of the road sometimes rode in it. Sometimes the Directors of the Ogdensburg Road would ride in it. Sometimes they used it for excursions.

Q. Excursions by whom? A. Well, the Ogdensburg people had it for an excursion from Boston to Ogdensburg a number of times. Sometimes the Trustees used it to go to Boston. Sometimes they would use that car when they went to make observations on the road from the car.

Q. By the Trustees do you mean Clark and Smith? A. They and Mr. Brainerd and others connected with the management of the road.

Q. Where is that car now? A. I think it has been altered and made into a passenger car, but I don't know for certain.

Q. Where was it built? A. Built at the shops here I think.

Q. Is there any way by which its cost can be ascertained? A. I think it can be ascertained at the car shop.

Q. What person would be able to tell us how much that Directors' Car cost? A. I think Mr. Camp can tell you.

Q. What do you say, Mr. Merrill, to such a car as that being necessary to the economical management of this Trust? A. I can hardly say. It was very convenient.

Q. Convenient—what do you mean by that word? A. Well, convenient for use; convenient for the Directors to ride in when they had to go out, as they often did, and when they had to spend a night on the road they wanted a place to sleep—sometimes they could not reach a point to get lodgings.

Q. And you think it was an act of prudence on the part of the management to construct such a car so that they could have something to sleep in? A. It was convenient.

Q. I ask you if it was prudence in your judgment? A. I can hardly say.

Q. Are you acquainted with other roads in New England? A. Yes, sir.

Q. Do you know of any road in New England where so luxuriously furnished a car as that is used? A. I don't remember, just now; I think there are some.

Q. Owned by what roads? A. I can not say now; I have heard—I think the Rutland Road has one.

Q. Did you ever see such a car? A. Yes; I have seen one on the Grand Trunk Railway.

Q. I am not asking about the G. T. R., or about any road in Canada where there are Dukes, Lords, Earls, and high personages to ride in the cars. My enquiry was in New England. A. Well, I think there are such cars on the New England Roads, but I would not testify as to any road because I am not sure. I know there is one on the N. Y. Central Road and also on the Pennsylvania Road. There are few Roads in New England long enough to need such cars.

Q. Then it is your judgment that this road needed such a car? A. I say it was very convenient for them to have it, and I say they wanted such a car for the purpose for which they used it.

Q. Can you tell any reason why an ordinary passenger car would not answer for the Trustees of this road? A. The Trustees did not always ride in it—besides, they could not sleep in an ordinary car.

Q. Would not an ordinary sleeping car do? A. I don't know whether there were any.

Q. Then you had not any sleeping cars in 1866? A. I think not; though I am not sure as to whether we had or not at that time; perhaps we had, but they were constantly in use on the trains.

[Mr. Merrill subsequently ascertained that such a car as the one in question was in use upon the Rutland Road, and also upon the Ogdensburg Road. The car upon the latter road being a passenger car fitted up for the occasion.]

Q. I show you voucher 278, for \$125—George G. Hunt; was that part of his salary? A. I judge it is of the same character as those you showed me before.

1865, signed by Joseph Clark, and ask you what was for interest on a note representing money borrowed by which interest was paid

Q. Was the Trust in the habit of borrowing money of Mr. Clark occasionally? A. Yes, sir.

Q. Of Mr. Willis? A. Yes, sir; sometimes.

Q. Of Gove nor Smith? A. Yes, sir; occasionally we have borrowed of him.

Q. Have you ever known Joseph Clark to pay any interest to the Trust? A. I don't know; he may have done so, but I never knew him to have borrowed money of them.

Q. Did you ever know of Governor Smith paying any interest? A. I am not sure; I don't think he borrowed money in that way. This money was borrowed of Mr. Clark, and I think I gave him a note for it. The interest was 6 per cent. on \$12,000.

Q. I show you voucher 486, Sept. 8, '65, signed J. M. Pinkerton; what is that for? A. Interest—or rather discount—upon a note.

Q. Were you in the habit of borrowing money from Mr. Pinkerton? A. I either borrowed money of him or obtained it of some Boston Banks through him.

Q. I show you vouchers 510 and 548, for \$125 each—George G. Hunt; are those a portion of the legal expense account? A. They are, I should judge, of the same character as those which were shown me previously—services as Attorney.

Q. Voucher 551, dated Oct. 2, 1865, signed by W. C. Smith, Treasurer, \$332, what about that? A. That is a receipt for money paid him as Treasurer of the Vt. & Canada Road and charged to that road.

Q. Have you any knowledge of what was done with it? A. No, sir; I have not.

Q. I show you vouchers 767-8-9-70-71, bills of tools burned; can you explain anything about them? A. They were tools burned in the car factory on the 4th of July. The road furnishes most of the tools for the shops, but these were tools belonging to the men that were burned, and the road paid for them. They were tools used in doing the work of the road.

Q. (By Judge Poland.) Do you know, Mr. Merrill, whether these same tools were covered by insurance, and whether the Trust got the money for them? A. I don't remember, sir; I know the building, etc., was insured.

Q. I show you voucher 775, dated October 5, 1865, for a bill of coal bought of the Clyde Coal and Mining Co. in August and September, 1865; will you state what price was paid to that company for coal? A. \$9.75 per gross ton.

Q. Will you state how the quality of that coal compares with the Cumberland and Lehigh coal? A. It is bituminous coal, the Lehigh is not. The Cumberland is bituminous; but the Clyde purchased to mix with the Cumberland coal. We had 6 locomotives, and they could burn the Clyde coal

Cumberland and Lehigh. The Clyde was also cheaper than the other kinds.

Q. Here is a voucher, No. 782, for \$20, which is charged to shop stock account which I presume is all right, but I should like to have your explanation of what it was for? A. That was for a coffin for a man who was killed whilst repairing cars. We had a car "jacked up" in the yard: he was at work at one end of it, and through some accident it fell on him and killed him. That class of bills always goes with shop stock and from there it is charged to another account. The shop stock account includes a great many such accounts, which have to be transferred.

Q. Voucher 385 for \$137 91, signed by E. N. Peck; what is that for? A. Salary as clerk for Central; it is of the same character as these proceeding ones signed by him.

Q. Voucher 1,014, dated Oct. 13th, 1865, for \$582 70; what is that for? A. Legal services, A. Tracy.

Q. Is it legal expense, or is it a charge for procuring charter for the Eastern Road? A. It is charges for procuring charter, &c., and expenses.

Q. How much of that bill is for expenses at Montpelier in procuring charter of the Eastern Road? A. \$550 I should judge, but whether they were at Montpelier or not I don't know; I presume they were, the bill does not state.

Q. What advantages were those services in procuring that charter to the Vt. Central and Vt. & Canada? A. As I understand it the Northern Road had declined to let the Central Line have two outlets to its business; this charter was procured to obviate that.

Q. And the road surveyed, was it not? A. Yes, sir; so that it might have the same advantage of two outlets that it now has.

Q. Which do you think would be most benefitted by procuring that charter, Smith and Brainerd as lessees of the Sullivan or the Vt. Central Road? A. I should think the Central Road would be most benefitted, because the procuring of that charter was to prevent their being tied down to one outlet for their freight in that direction.

Q. The purpose was for the Vt. Central and Vt. & Canada, as you understand it, to pay the expenses of that Eastern Vt. R. R. then? A. I don't know whether they were to build it; they intended to have the charter under their control.

Q. Do you know who the persons named in the charter were? A. I don't, sir.

Q. Voucher 1,034, for \$250 for F. E. Woodbridge, purports to be for his services as Special Master. This is dated Sept., '65. A. He was one of the Masters whose expenses were included in the order of the Court, as was explained yesterday.

[The order in question was here read by Mr. Davenport.]

Judge Poland:—Judge Smalley and Judge Pierpoint were appointed to settle the Receivers' accounts; after this decree was made I appointed the same Masters to settle the account. It appears that a portion had been heard before Judges Smalley and Pierpoint, when the latter died and Judge Woodbridge was appointed in his place.

Q. Voucher 1342, for \$250, for rent paid to Mrs. Catherine Dillon. What was rented of Mrs. Dillon and for what purpose? A. It was a building used while this depot was being put up, for the use of the architect and engineers, or some of the officers.

Q. Voucher 1368, Nov. 30th, 1865, \$1000, Levi Underwood: what is that? A. Salary and expenses to Nov. 30th, 1865.

Voucher 1369, dated Dec. 2d, 1865, Geo. F. Edmunds; what is that for? A. \$1041 24; for counsel fees; \$1000, traveling expenses, \$41 24.

Q. Voucher 1370, for \$125, Geo. G. Hunt, Dec. 1st, 1865; is that part of his salary as attorney? A. It is of the same character as these preceding ones.

Q. Voucher 1376, Nov. 29th, 1865, signed by N. B. Safford; what is that for? A. \$500 contribution towards fitting up Fair Grounds for Vermont State Fair, at White River Junction. He was one of the members of the Committee.

Q. Voucher 1395, for \$57,900; what is that for? A. It is a bill of locomotives and freight cars purchased from the S., S. & C. Road.

Q. By whom? A. By the Trustees and Managers, who receipted the bill, Dec. 10th, 1865.

Q. Now, will you give the prices of the various articles named in that bill? A. Engine "A. B. Foster," \$20,000; "Bolton," \$20,000; "Saginaw," \$10,000; "Erie," \$2,500; six freight cars, at \$900 each \$5,400; total, \$57,900.

Q. Who settled the price which John Gregory Smith and Joseph Clark, Trustees, should pay to Joseph Clark and John Gregory Smith, Managing Directors of the S. S. & C. Road, for these engines? A. I presume Mr. Perkins, the master mechanic.

Q. What makes you presume so? A. Because I see on the note "Charged shop stock, R. Camp." He was Mr. Perkins' clerk.

Q. Is that all that makes you think Mr. Perkins fixed the price? A. That is all I could now say about it.

Q. How long had the "A. B. Foster" been in use? A. Not very long; it was nearly new. I don't how long.

Q. How long had the engine "Bolton" been in use? A. I don't know; not long.

Q. How long had the "Saginaw" been in use? I think that was an old one by the price.

Q. Was the price of the "A. B. Foster" the price of a new engine? A. I think not.

Q. Were you not buying engines of the Manchester Locomotive Works at that time? A. I presume we were; but I don't remember who was paid them for a new engine: we paid sometimes \$25,000. Everything was very high at that time when the "Foster" was built.

Q. Have you got any thing in the office to your knowledge which tells the size and capacity of these engines, "A. B. Foster" and "Bolton"? A. Probably they have at the shop. I think the "Foster" was built in Manchester Locomotive works.

Q. What was Messrs. Clark and Smith's relation to the S. S. & C. Road at the date of that voucher? A. I don't know when they made the arrangements with Mr. Foster in regard to the purchase of the road.

Q. Were they at that time operating the road? A. I don't know, sir; I don't remember.

Q. Did they operate it at all before the date of that voucher? A. I don't remember, sir.

Q. Well, when that road was operated by the Trust it was under your charge as General Superintendent was it not? A. No, sir; under the man that had been there before.

Q. When did you first have anything to do as superintendent with the S. S. & C. Road? A. I don't recollect, sir.

Q. Have you any means at your command by which you can tell? A. I don't know that I have; I am not sure. The time tables were issued by Mr. Arnold, Division Superintendent, some little time after the Central had become interested in it.

Q. Who is there from whom we can ascertain who was running the S. S. & C. Road in 1865, and under whose superintendency it was?

A. I think Mr. Arnold or Governor Smith would perhaps know.

Q. Gov. Smith said perhaps you would know about it; don't you? A. I cannot remember.

Q. Had you any knowledge that the S. S. & C. Road was operated along in 1861-2-3-4 by Messrs. Smith and Clark? A. I don't know; I don't remember distinctly; they had something to do with the management, although its management, I think, was directed by Mr. Foster to some extent for some time. It was a good while before the Central took it, I think.

Q. Did the funds derived from operating that road go into the Trust before 1865? A. I don't know. I think for a portion of the time it may have done so but perhaps I may be mistaken. I know that money was loaned them by the Trust from time to time.

Q. Did the money loaned pass through your hands? A. I think so.

Q. Did the money to pay these loans? A. I think so or else it was some of the purchase money.

Q. Do you know how much that road cost the Trust? A. No, sir. I do not, except as the entries are made upon the books.

Q. Have you any general idea as to the cost of that road? A. I have forgotten what the cost was.

Q. Does the cost appear on the books? A. I suppose it does.

Q. I notice in the accounting, Mr. Merrill, large amounts expended for premiums upon gold and charged to the general expense account. I see nothing of any amount before 1854-5-6. What was done with that gold? A. I don't know; we had to pay gold for a good deal of material bought in Canada. We had to buy a lot of material for locomotive repairs—axles and other articles for all of which we had to pay gold.

Q. Well, all the purchase of the S. S. & C. was to be paid for in gold or Canada currency, was it not? A. I think it was.

Q. Now was not the bulk of the gold which you were buying from time to time used to pay for that road? A. I don't remember. I

think not; we were using large amounts of gold for other purposes. The American currency was so fluctuating that we could not order goods without the price being stipulated in gold, the currency value being so unsettled.

Q. Would they not take greenbacks at the current value? A. We could never make a bargain in greenbacks because their current value when the goods were received would perhaps be a great deal less than when they were ordered.

Q. Could they not be paid for in greenbacks and the difference allowed? A. Sometimes we did settle bills in greenbacks and then we paid the premium.

Q. I show you voucher No. 1,449, April, '65, signed J. L. Lincoln, cashier Boston & Lowell Road; what is that for? A. Use of engine, &c., 12 days, 1,570 miles, 30c per mile.

Q. The fact I want to call attention to is the price charged you by the Boston & Lowell Road for the use of an engine per mile, including fireman, engineer, &c.? A. 30c per mile.

Q. Who furnished fuel to work that engine? A. The Central Road I think. I don't remember where it was used, but I presume the Central Road furnished it. I presume it was used on this road.

Q. Was that the usual price paid and allowed? A. I think it was high.

Q. Was that engine kept in repair at your Company's shops? A. I think so; my impression is that it was used somewhere on this road.

Q. Is that a reasonable price? A. I think the price was high and I thought so then.

Q. If you thought the price was high, why did you pay the bill? A. Paid it because we had to, I suppose. The bill perhaps would lie over some time before we paid it, but we finally settled it.

Q. Do you know whether that is the usual price charged by other roads? A. I should judge it was higher.

Q. Do you know whether Joseph Clark, in addition to the salary which he received, or is entitled to receive, was in the habit of charging for his expenses when engaged in business of the Trust? A. I think he did. I am not sure whether every bill was paid to him; I should judge so.

Q. Voucher 1471, Dec. 16th, 1865, Jo D. Hatch; what is that for? A. Incidental expenses at Montpelier, session 1865, \$130 85.

Q. What service did G. M. Taylor perform for this Trust? A. I don't know, sir.

Q. Do you know where he lived? A. He lived in Essex County.

Q. Did you ever have any communication with him? A. I think not.

Q. Voucher 1472; what is that for? A. \$69 91—services and expenses as Director of the V. C. R. R.—Jo D. Hatch.

Q. I show you voucher 1588, Dec. 10th, 1865; what is that for? A. Tools, consisting of wheelbarrows, trucks, &c., \$2,600. These were tools in use upon that road. Also, 40,000 ties, at 30c, delivered to the Vt. & Canada R. R., \$12,000; and for 650,000 feet hemlock lumber, receipted Joseph Clark and J. Gregory Smith.

Q. Who fixed the price that J. G. Smith and Joseph Clark, Receivers, should pay Joseph Clark and J. Gregory Smith, Managing Directors, S., S. & C. R. R.? A. I don't know; perhaps I did.

Q. Well, did you? A. I think I did; I should judge so.

Q. Did you see the tools, &c.? A. I did. I think I made an inventory of them.

Q. Where is that inventory? A. I don't know, sir.

Q. Did you ever see that inventory? A. I presume I did. I should not have made the bill without.

Q. Now, where is the evidence, Mr. Merrill, that in 1863-4-5, 40,000 ties were delivered to the Vt. & Canada Road by J. G. Smith and Joseph Clark? A. I don't know where it is. I had the evidence, or I should not have approved the bill.

Q. Where will that evidence most likely be found? A. I don't know that it can be found.

Q. When you say you had the evidence, what evidence do you mean? A. I mean the evidence to satisfy me that the bill was correct, or I never should have approved it.

Q. Would the statement be with Gov. Smith or Mr. Clark? A. Neither of them would be likely to know.

Q. Who would be likely to know? A. I probably obtained the account of the ties from the Road Master and the lumber from the shops and the Road Master. Part went to the shops, part to the road; perhaps part to the bridge master.

Q. Have you not vouchers on file for every tie you ever bought if anybody else than Gov. Smith and Mr. Clark? A. No other than this. This is the voucher for the ties I paid them for.

Q. The question is what evidence is here upon the books of the Trust or in the office of the Trust, that it ever had those ties? A. I don't know. The account was kept on memorandums at the time. I could not have been satisfied in any other way.

Q. Will you produce, Mr. Merrill, the evidence which you had at that time that satisfied you that during those three years 40,000 ties were delivered to the Vermont & Canada Road? A. I don't think I can.

Q. I don't think anybody can produce it; do you? A. I don't know.

Q. How did these ties get on the Vermont & Canada Railroad? A. They were brought here on the cars.

Q. By what route? A. I suppose by the way of the Montreal & Champlain Road; and I presume during the last of the time over the M. & Vt. J. Road. They may have been delivered at Burlington by water. Very likely a portion of them was delivered that way. We kept account of them during that period, and had no settlement until his time when the account was settled. Some of them was, I think, sent to the bridge at St. Johns.

Q. Would there be any billing of them anywhere? A. There may be bills of lading somewhere.

Q. You were satisfied that there were 40,000 ties? I am satisfied that there was that number.

Q. And there was just an even number of feet of hemlock, 650,000 feet? A. I was satisfied that there was that quantity. There may have been other bills put in after that to make up for any over plus.

Q. What kind of ties were these? A. Hemlock and tamarack. I suppose.

Q. What was the price of ties in 1863? A. Various prices. It would depend upon where they were delivered.

Q. Well, delivered anywhere between Rouses Point and the Vermont & Canada Road? A. I don't remember. I presume 30 cents was the price.

Q. Did you pay other parties as high as 30 cents for hemlock and tamarack ties? A. I don't know what we paid for tamarack.

Q. Did you pay any one else 30c for Hemlock? A. I don't remember.

Q. Did you ever pay, during the highest prices, any sum exceeding 30c for Hemlock ties? A. I cannot say; I think that bill at 30c was during the highest times.

Q. Were you in the habit of paying \$10 00 per thousand for Hemlock fence boards in 1863? A. I presume we paid more than that. I don't know what we paid on the Vt. & Canada Road; the books and the vouchers will show what we paid.

Q. Is there any reason that you know of why Clark and Smith should have any larger prices for Hemlock lumber and ties than any other person? A. They would not, under the same circumstances, for the same quality.

Q. Did you see the quality? A. I saw them all the time, I suppose.

Q. Were they a better quality of ties and fence boards than other ties, etc.? A. Canada ties are of better quality than those in Vermont.

Q. And you think these a better quality than you could purchase elsewhere? A. I think there were some here perhaps as good as those, but generally they were better from Canada.

Q. Who approved of your tie bills usually? A. The Roadmasters would certify them to be correct. I approved the bills.

Q. Did they also certify the bills of fence boards to be correct? A. Yes, sir. The chief of whichever department material went to, would certify it to be correct.

Q. Have you in your possession any certificates from the Roadmasters, where these ties and fence boards were delivered? A. I don't know whether I can find any now or not.

Q. Have you got any? A. I don't know, sir.

Q. Did you ever have any? A. I either took their word or their certificate; I don't know which.

Q. Who were the Roadmasters on the Vt. & Canada Road in 1863, from Rouse's Point down to this place? A. I don't remember whether Mr. Cole or Mr. Hatch; Cole was here some years, and Hatch succeeded him—Mr. William Hatch, I mean—he is here now.

Q. Where is Mr. Cole? A. I don't know; I think he is dead.

Q. Which of them was it that you had either their certificate or their "say-so" for the material? A. I don't recollect. All I remember

is that we had a large quantity and I say I approved the bill. I should not have approved any such bills without I was satisfied that such a quantity had been supplied. I never did, and I don't think I ever should, without being satisfied the bill was correct.

Q. Is there any other instances to your knowledge that you approved of a bill of ties or lumber as correct on the back of it that you did not have on the face of it, that blank filled by the certificate of the Roadmaster? A. Likely there are; I should think quite a number of cases. Those purchased on the road I might not see, because they would be distributed to men upon the road and the foremen returned the bills to me.

Q. Did you see these ties in question, any more than you saw other ties delivered on the road? A. I think I did, because what came in here would come on cars. I think I saw those coming from Burlington, but I am not sure. I don't remember distinctly; we had quite a large quantity of ties and fence boards.

Q. The next I find is voucher 1641, dated Nov. 5th, 1865, for Hemlock boards delivered during the year 1865; will you read that bill? A. Trustees, etc., etc.,—To James Hayes, Dr.: 72,244 feet Hemlock boards, at \$4 50 per 1,000 feet, \$325 09.

Q. Now, that bill is a Canada bill, payable in silver, is it not;—what was the premium on silver then? A. I don't remember. The boards were received at Stanbridge, I presume. Haynes lives there, or at Sheffield.

Q. Were they not received on the S., S. & C. Road? A. I presume so.

Q. And on the same road that this hemlock lumber came from?

A. I presume so.

Q. For the purpose of argument, suppose silver to be worth 40,—was that the premium on silver at the time you paid that bill, in 1865—the latter part? A. I don't remember. There was no difference, then, I think, between silver and gold. There is now.

Q. (By Judge Poland). What would be the difference in value between a thousand feet of boards here and at the other end of the Waterloo Road? A. The expense of hauling them, that is all.

Q. Mr. Merrill, I want to know if this road ever received a dollar of Joseph Clark or J. G. Smith for hauling lumber or any other kind of freight, to your knowledge? A. Yes, sir, I think so. I have not had charge of the freight accounts, but I think they have paid such freight bills.

Q. Are you able to testify, Mr. Merrill, that the Trust was paid anything for the transportation of those ties and boards which are charged \$10 00 per thousand and 30c each? A. I am not sure, sir; I don't remember anything about it. If they came by water during 1863 or 1864 to Burlington there would be no freight bills for them; or if they came via the Montreal & Champlain R. R. to Rouses Point, Mr. Clark and Gov. Smith would probably pay freight for them by those routes, but there would be no freight to pay for hauling over this road. I don't know whether they paid freight upon the S., S. & C. Road; I have no means of knowing.

Q. There is no way in which we can find out, is there? A. I don't know; perhaps you may find out upon the books, but I don't know whether you can or not.

Q. Voucher 1,694, for \$1,148 75, signed W. C. Smith, Treasurer; what is that for? A. Incidental expenses, Vt. & Canada R. R.

Q. Do you know what these incidental expenses are? A. I suppose the expenses of organization. It is dated Dec. 9th, 1865.

Q. Voucher 1,675, for \$2,500, signed W. C. Smith, is that also for incidental expenses? A. It appears to be the same. Dec. 13th, 1865.

Q. Voucher 1,702, Jan. 6th, 1865, for \$100; what for? A. Expenses of detective; \$18 chargeable to Northern, Passumpsic and Vt. Central Roads; that was for one of the detectives set to catch thieves at White River Junction.

Q. Voucher 1,710, for \$1,250, dated Jan. 20, 1866; L. Newcombe; what is that for? A. He was the architect for the building of this depot; that is for his services.

Q. What salary was he paid during the time this depot was in process of construction? A. \$2,500 per annum.

Q. Did he have any other duties than to supervise the construction of this depot? A. Perhaps he made some plans for other depots.

Q. Mr. Merrill, where shall I find how much this depot cost the Trust? A. I don't know if you will find it anywhere. It would be charged to depot account. I think the cost was estimated once.

Q. And what did it cost? A. If I recollect rightly it was about \$175,000. I think that was what the report shows.

Q. What did the Burlington depot cost? A. I don't recollect distinctly; about \$60,000.

Q. What did the Essex Junction depot cost? A. That was built earlier, and the expenses were less, but I am not sure what it cost. I don't remember.

Q. Is there any way it can be found? A. Possibly it can be found out, I don't know what the cost was now.

Q. Is it not true that a part and quite a large part of the expense of the construction of depots is charged to the general expense account? A. I presume not.

Q. And all bills of construction of depots which are charged to the general expense account are erroneously charged then are they not? A. I presume so. Expenses for construction of depots should be charged to depot account. There may be charges for the supplies at depots which would be charged to general expense account.

Q. Do you think, Mr. Merrill, that the whole expense of the depots, St. Albans, Burlington, Essex Junction and White River Junction can be ascertained by footing up the bill charged to the account of depots on the books? A. It would be included in the account for depots, as I understand.

Judge Poland:—What is the point of all this, Mr. Davenport? you complain that they built better depots than they should have built.

Mr. Davenport:—We claim that the depot that stood here originally was amply sufficient for the administration of the Trust. We claim

the old Burlington depot was sufficient. We claim that in the building of depots the money of this Trust was extravagantly and recklessly expended.

Q. When was the depot at St. Albans commenced and when finished? A. I don't know, sir. I should think it was completed in '65 or '66, but I may be mistaken.

Q. Does this charge for Newcomb's services as architect help you towards fixing the dates; that is, the first charge I have seen in the books for his services? A. This is the last half of '65, but I presume he did not include his services for all the time while the depot was being built. We were at the same time building the south shop, and I judge by this voucher that the depot was not finished till '66. It was completed early in the winter—to the best of my recollection—of '65 or '66. I should think '66, but I may be mistaken.

Q. Were the Repair and Machine shops constructed at the same time? A. The South shop was; the North shop was built some time before.

Q. Do you know what was the cost of the Machine and Repair shops here at St. Albans? A. I don't remember.

Q. How can that be ascertained? A. The amount of cost has, I think, at some time been embodied in some of the reports, but I don't remember; my memory of amounts is somewhat defective.

Q. Voucher 2230, signed by Jo D. Hatch, for \$44 07, March 28th, 1866. I ask you if that bill accrued in connection with the Eastern Vt. R.R? A. I should think so, from the appearance.

Q. Voucher 2369, signed by Levi Underwood, March 21st, '66, for \$1000; what is that for? A. Six months' salary—legal expense account.

Q. Voucher 2457, April 6th, '66, J. D. Hatch, for \$338 15; what is that for? A. One of Mr. Hatch's bills for expenses.

Q. Voucher 3,711, signed by J. M. Pearsoll, April 29th, 1867; can you tell me about that? A. It purports to be for compensation for services in disposing of equipment loan.

Q. Now, do you know how much of the Equipment Loan was disposed of? A. I don't; Mr. Williams says \$150,000. Mr. Pearsoll was cashier of the Consolidation Bank of Philadelphia.

Q. Voucher 4,187; please say what that is. A. Note payable to A. B. Foster, \$20,000; note paid April, 1867.

Q. Was the interest on that gold interest? A. I presume it was currency turned into gold.

Q. Voucher 3,403, June 22d, 1866, J. J. Abbot; what is that?

A. Legal expenses paid to Mr. Abbot, Montreal.

Q. Do you know what the nature of Mr. Abbot's services was?

A. I don't specifically. I know once he was engaged in the matter of the bridge at St. Johns.

Q. Voucher 3,096, May 12th, '66, cash paid in stamps and notes, A. B. Foster, \$85; 20 copies of agreement \$105; what account is that charged to? A. General expense account.

Q. Should that be charged to the S. & C. Road as part of the cost of its purchase? A. I think it should.

Q. Voucher 4,347, Levi Underwood; what is that for? **A**
\$1,000, 6 months salary.

Q. I now show you voucher 3,095, \$6,000; what is that for? **A**
Premium on \$20,000 gold, 30 per cent.; it is interest on this note; it is the first payment to Foster at the time of the S., S. & C. purchase.

Q. Will you tell to what account this premium was charged? **A**
General expenses.

Q. Should not that be charged to the cost of the S., S. & C. R. R.
A. Probably it should.

Q. It is part of what that road cost the Trust, is it not? **A.** **M**
Williams made all these transactions and they are not familiar to me.

Q. Voucher 3,084 for \$114 69, signed by E. W. Peck; what
that for? **A.** Services connected with the Vt. Central R. R.

Q. Voucher 3,083, for \$30, May 3d, 1866, signed by Peter Smith
what is that? **A.** It is a reward paid to him for the apprehension
of persons who placed obstructions on the Montreal & Vermont June
tion R. R.

Q. To what account is that charged? **A.** General expense.

Q. Did Governor Smith and Mr. Clark who have half of the gross
earnings of the M. & Vt. J. Railroad pay any part of that? **A.** I
suppose not.

Q. Should they? **A.** I don't know why they should.

Q. Then the Vermont Central ran all the risks with reference to
that road? **A.** They ran that risk, if their engines ran off the track.

Q. Voucher 2665 for \$1005, January 1st, 1866; what is that for?
A. Legal expenses of Levi Underwood, \$1000; and expenses as
director of the Vermont Central, \$5. The second charge is for attending
a meeting of the Board of Directors of the Vermont Central Road to
arrange in reference to the matter of street crossings on the old line at
Burlington.

Q. Voucher 3276 for \$500, signed by "B. P. Cheney;" what is
that for? **A.** Commissions on \$10,000, equipment loan, $2\frac{1}{2}$ per cent.

Q. Is that the same equipment which the Philadelphia cashier
charged one per cent. for disposing of? **A.** I am not sure whether it
was the same issue or not. There were two issues.

Q. Was Cheney one of the receivers of this Trust at the time he
charged that commission? **A.** I think he was, but I am not sure
whether he was at that time.

Q. Voucher 3278, B. P. Cheney, May 7th, 1866; what is that
for? **A.** Commission on \$3600, at $2\frac{1}{2}$ per cent.

Q. Voucher 3106, May 16th, 1866, \$100; what is that for? **A.**
Subscription towards purchase of a fire engine at West Randolph.
We had a good deal of property at risk there, and the roads agreed to
contribute \$100, provided they would place the engine house near to the
depot, in case it might be handy in case of a fire at the depot.

Q. You had an insurance upon your depots, wood and bridges,
had you not? **A.** Not enough to cover all the buildings and fuel
stocked there.

Q. Were you in the habit of contributing to fire companies on the
line of the road? **A.** No, we were not. I think this is the only

instance. We sometimes contributed to fire companies in the way of carrying their engines free, when they assisted at any fire on the line of the road. We did so in the case of a fire at Waterbury and at Lebanon.

Q. I show you voucher 4362, Nov. 7th, 1866, for \$4000, signed W. C. Smith: what is that for? A. Incidental expenses Vt. & Canada Road, it purports to be.

Q. I show you voucher 4574, signed Ambrose Arnold, dated Dec. 13th, 1866; what is that for? A. Services M. & Vt. J'ct. Road, \$400. He was Divisional Sup't, and his jurisdiction included the S., S. & C. Road.

Q. How was his salary divided? A. I don't recollect what he had on the S., S. & C. Road.

Q. Who paid that \$400 for his Superintendency? A. The Trust.

Q. Why was it separated? A. The expense of the S., S. & C. Road has always been kept separate.

Q. Has the expense of running the M. & Vt. J'ct. Road been kept separate, also? A. Some of the expenses have, some have not. This amount should have been charged to that road. I don't know how it came to be charged to the Central.

Q. And should have been deducted from the expenses of that road before any division of earnings was made? A. No, sir, it would not make any difference in that respect.

Q. I show you voucher 4,575, Jo D. Hatch, dated Nov., 1866; what is that for? A. Cash paid expenses retainers and self at Montpelier, \$168 85.

Q. Do you know who he retained that session at Montpelier? A. I do not, sir.

Q. I notice among the vouchers a number of them showing an increase of pay. For instance, here is one, H. H. Locklin, July 1866, for increase of pay as per agreement from Jan. to June, \$250; what do you know about that? A. I don't remember distinctly about it; very likely he was promised an increase of pay from Jan. and it was not settled for until July when he would receive the increase for the six months altogether.

Q. Was there a pretty general increase of pay among the employees of the road in 1866? A. I don't know that there was. Mr. Locklin had a great deal of work to do and was a very faithful man. It is possible the increase of pay was made in that way to avoid its appearing on the pay roll and the other employees seeing it.

Q. Mr. Merrill, what was your salary when you first came on the road? A. \$3,000, and \$1,000 from the Sullivan Road, making \$4,000.

Q. When was your pay increased? A. I don't remember the time—the books will show. It was increased to \$4,000 on this road.

Q. What was your salary the last portion of the time you were Superintendent? A. \$6,000 and \$1,000 on the Sullivan, making \$7,000.

Q. Were not the salaries of all the various heads of departments—you had three or four divisional Superintendents under you I understand—were not their salaries increased as the Trust grew more embarrassed? A. It was no more embarrassed that I know of.

Q. When did your Trust begin to borrow money extensively? A. I don't recollect. They borrowed extensively before I came on the road, but those debts were largely paid up and reduced I think.

Q. Well, the salaries began to be increased in 1866 or '67 did they not? A. I think they were increased before that time, some of them. A new man would take the place of some one who had left, and he would receive less salary than the other had and work up.

Q. Voucher 3982, George F. Edmonds for \$1147.41; what is that for? A. Legal expenses.

Q. Mr. Merrill, what was Lansing Millis' salary during the time he had charge of the Boston agency in 1866-67? A. I don't know, sir; his accounts will show; I don't recollect.

Q. Was it \$10,000 per year? A. I don't know, sir.

Q. Well, about what do you think it was? A. I have no recollection.

Q. How can we ascertain what his salary was? A. From the monthly reports I should think.

Q. Voucher 3893, dated August 22d, 1866, signed by L. Millis; what is that for? A. Extra services in negotiating equipment loan bonds, etc., \$464, \$717.96, \$2,500.

Q. Did you pay that? A. No, sir, Mr. Williams did I presume.

Q. Who approved of it? A. Gov. Smith; I think he would be able to explain that voucher.

Q. Voucher 4166, dated October 8th, 1866; what is that for? A. Premium on gold.

Q. What was that used for? A. It is charged to the S., S. & C. Road a portion of it, and a portion of it to general expenses. \$12,534.60 is charged to the S., S. & C. Road.

Q. Why is a part of it charge to general expenses, and part to the S., S. & C. Road? A. I don't know, sir; Mr. Williams can perhaps explain it.

Q. Should it not all have been charged to the S., S. & C. Road? A. I don't know; Mr. Williams can explain. Mr. Williams says that \$25,000 gold went to pay one of Mr. Foster's notes, and the balance, \$4000, was for general purposes.

Q. There is another voucher, 3199, signed by J. W. Hobart, not dated; Trustees of the first mortgage bonds to J. W. Hobart for back pay, etc., February, March and April, \$166.68; do you know what that is? A. I presume it was an increase of pay and the increase dated back.

Q. Voucher 5969, April 1st, 1867, signed J. D. Hatch, \$425; what is that for? A. Paid for retainers, board, travelling expenses, etc.

Q. Is there anything to show who the retainers were? A. I see nothing here.

Q. Is there anything on the books? A. I don't think there is.

Q. Voucher 5993, for \$1582.40, dated Montreal, June 17th; what is that for? A. For interest due on 6100 bonds of the S., S. & C. Road.

Q. Do you know anything of these bonds? A. No, they were bonds belonging to English parties of which the interest had to be paid.

Q. Voucher 5,860, signed J. G. Smith, dated April, 1867; what is that for? A. \$1,704 49, interest on \$21,306 12. I cannot explain that, perhaps Mr. Williams can.

Q. Voucher 6,328, Sullivan R. R.; what is that for? A. Machinery and tools bought of the Sullivan Road.

Q. When were they bought? A. Dec. 1st, 1865, I should judge to be the time. I recollect their being booked over and appraised.

Q. Who booked over and appraised them? A. Mr. Perkins I think.

Q. Whether the Trust took them and paid for them? A. Yes, sir.

Q. Where were those tools between the time the lease was given in Sept. 1861, and the time they were purchased? A. I think they were carried into Canada and used at Waterloo a good many of them.

Q. And then brought back from Canada and sold to the Trust? A. Yes, sir.

Q. At the time they were used at Waterloo, in Canada, they were the property of Messrs. Clark and Smith, were they not? A. No, sir; of the Sullivan Road. When the lease was made the property was taken off by the Northern Road excepting this property which was sold; this was in the machine shop at Charlestown when the Road was taken by the lessees, then they were removed to Waterloo to be used there. Some of the tools are in this shop now I think.

Q. (Judge Poland.) Did they take them at a fair rate as far as you know? A. They did; perhaps a low rate at the time.

Q. Voucher 6,694, Lawrence, Wilde & Co., bill of furniture, \$1,585 18, who approved that bill? A. I approved of the bill. I think Mr. Millis made the purchase.

Q. Where was that furniture used? A. At different places in this depot; some I presume was used at the Burlington depot, but I think most of it at this depot.

Q. What was your judgement at the time and what is it now with reference to the necessity of such expensive furniture? A. I think it was necessary to get good articles.

Q. You think \$75 each for sofas for a ladies' sitting room is not an extravagant price? A. I don't think the ladies' sitting room in this depot is extravagantly furnished.

Q. There are three sofas in this bill at \$75 each and you don't think that price extravagant? A. Everything was high priced at the time they were bought. I don't think the road was any too well furnished. I don't know about the prices; it was necessary to get good furniture.

Q. I see there is one sofa here \$125 for Trustees' Room; which is that? A. I presume that is the one in this room.

Q. One rotary chair and three arm chairs for the Trustees' office; where are they? A. I presume they are the ones in this room.

Q. Voucher 7,090, for \$2,750; what is that for? A. For desks, letter press, stand, &c.

Q. Well, it is for furniture for the St. Albans depot, is it not? A. I presume they all came here.

Q. Which is the room called Governor Smith's room? A. The one we are now occupying.

Q. Voucher 7,083, for \$25, dated Sept., 1867, signed Brigham & Waterman, retainers attorneys; did they ever perform any business for this Trust that you know of? A. I don't know; the amount is for legal expenses.

Q. Voucher 6929, containing an item of \$500, signed by Robert F. Taylor, dated Sept. 20th, 1867; what is that for? A. Purports to be one years' services as Committee of Bondholders.

Q. Voucher 7082, dated Sept. 28th, 1867, and signed Benton & Wilson; what is that for? A. Purports to be retainer for attorney for the Trustees.

Q. Voucher 6765, July, 1867, signed "Joseph Andrews," \$500; whether that is for services as a member of the Auditing Committee? A. It is, I should judge. He was a member of the Committee for a number of years.

Q. Voucher 6738, for \$106 85; what is that for? A. Expenses for excursion party, June, 1867, to White Mountains.

Q. Did you accompany that excursion party, Mr. Merrill? A. I don't remember whether I did or not.

Q. Voucher 5855, signed L. Millis; what is that for? A. Note payable and interest, 5 at \$5,000 and 3 at \$10,000.

Q. Do you know what rate of interest was paid Mr. Millis for the money furnished by him to the Trust? A. I don't know. Mr. Millis borrowed money for the Trust and we had to pay him what he paid the Bank.

Q. Voucher 6070, for \$100 33, signed by Levi Underwood; what is that for? A. For part of his salary.

Q. Voucher 4898, for \$7,800, signed "O. A. Burton;" what is that for? A. Premium on \$20,000 at 39 per cent.

Q. What was done with that gold? A. I don't know; it charged to the S., S. & C. Road.

Q. Voucher 4859, for \$1001 55, George F. Edmunds; what is that for? A. Part of legal expense account.

Q. Voucher 9294, for \$467, signed B. N. Spence, June 1867; what is that for? A. Services in obtaining from the Government money due to us for carrying troops during the war.

Q. Who is Mr. Spence? A. I don't know the man; Mr. Hobbs employed him. He was at one time an officer of the Government.

Q. Voucher 8969, for \$268 75, signed by the same man; what is that for? A. For the same purpose. I think you will find a number of similar items for the same thing. He was a considerable time engaged in the same occupation.

Q. Did his services amount to anything? A. They did.

Q. Was there any difficulty in ascertaining what the claims of your Company had for the transportation of soldiers? A. Yes, sir; we had considerable trouble, in ascertaining the matter, with the Government. The vouchers got lost, and we could not collect the whole of

amount due to us from the Government. Mr. Spence acted in our behalf and succeeded in getting considerable sums from the Government that were due to us and which we should not otherwise have collected.

Q. Voucher 8974, dated April 13th, 1868, signed "E. W. Peck," \$125 21; what is that for? A. Services of Mr. Clark on the Vt. Central Road.

Q. I show you another voucher, 8969, for \$269 50; what is that for? A. Same as the preceding one.

Q. Voucher 8959; what is that? A. For salary of J. M. Pinkerton, as member of the Committee of Bondholders, for nine months, to Nov. 8th, 1867, \$375.

Q. Voucher 8895, dated Oct., 1868; what is that? A. Legal expenses—B. F. Fifield—\$820, charged to the Vt. & Canada Road, I think.

Q. Voucher 8956, signed Thomas S. Harlow; what is that for? A. Suit "Charles E. Page against Smith and others, Trustees," being for judgment and cost in the above entitled suit.

Q. What was that suit for? A. I don't recollect now.

Q. Voucher 8955, Rannie and Colby, April 11th, 1868; what is that? A. I think that is a case of damage to some horse that got burned; the car took fire.

Q. Voucher 8823, signed by Joseph Clark and John Gregory Smith. \$9072.41; what is that for? A. It is an interest account.

On what money? A. If I recollect correctly on monies of the M. & Vt. J. Railroad, belonging to the corporation, that portion of it which was left and used by them.

Q. Then it is interest on the money from the time the balances accrued till they were drawn out? A. Yes, sir. All I recollect about the bill makes me feel confident that that was it.

Q. That sum is in addition to the statement that has been furnished showing the account they have received of the earnings, is it not? A. I presume it is, I don't know, the books will show.

Q. Do you know if the statement furnished shows the total amount they received? A. I did not go into details; I took the footings only.

Q. Did the statement you have furnished cover any interest? A. I don't know if it did or not. I presume this amount did not go in because it is evidently a Vermont Central voucher, and would go into the account.

Q. Voucher 8559, J. Gregory Smith, please say what is that for? A. Personal expenses from January 5th, 1861, to December 1867, \$3276.46.

Q. Is that in addition to his salary? A. It is, I presume.

Q. Voucher 5540, January 1st, '68, signed J. D. Hatch, \$463.53; what is that for? A. It purports to be for travelling expenses and expenses before the Legislative Session of 1867.

Q. Voucher 8539; what is that for? A. February 17, 1868, for \$500 to J. D. Hatch for extra services.

Q. Do you know what J. D. Hatch's salary was at that time? A. I don't recollect. I think \$125 monthly.

Q. Voucher 9339, \$118.97, M. Hall Stanton; please say what is for. A. It is for services as member of the bondholder's committee for expenses to Boston, to attend a meeting on behalf of the holders of the second mortgage bonds.

Q. Voucher 9315, \$500, dated June 23d, 1868; what is that for? A. Receipt from E. W. Chapman for compensation for injuries received in consequence of being ejected from the cars on this road.

Q. Do you know anything about that? A. No more than I presume he was put off the cars and claimed damages.

Q. Voucher 9310, signed W. C. Smith, dated February, what items compose that amount? A. Salary as treasurer of Vermont Central Railroad to June, 1866, \$300; to June, 1867, two years interest, \$18; total, \$618; approved by Mr. Taylor.

Q. Voucher 8157, F. W. McDonald, proprietor of the Western House; what is that for? A. 24 dinners, 20 lunches, etc., etc., for the same.

Q. Why was that bill paid from the Trust? A. The expenses were for an excursion party from Portland to Ogdensburg. My impression is they were connected with the Portland & Ogdensburg Railroad and came here at the time they contemplated building the Northern Swanton; they came to look over the route.

Q. But why did the Trust pay their expenses? A. I don't know.

Q. Voucher 8371, signed B. W. Spence. I presume that has the same character as the others I have shown you, signed by the same person? A. Yes, sir.

Q. Voucher 8358 for \$33.80, George Robinson; what is that for? A. Bill of fees, and for state warrants.

Q. Do you know anything about that? A. I think we were looking for some thieves and that is the expense of their prosecution.

Q. Voucher 8,275, Joseph Clark, Jan. 31st, '68, \$600; what is that for? A. Interest on two notes, dated Aug. 26th, which were endorsed on the notes.

Q. Voucher 8,274, Lawrence Brainerd, \$80 71; what is that for? A. Dec. 6th, '64, E. T. Moseley, dividend on some Vermont & Canada stock.

Q. Why did Mr. Brainerd pay dividends on Vermont & Canada stock? A. I don't know, I don't think I ever saw the bill before Governor Smith:—I think that is an amount paid under the Internal Order of '64.

Q. Voucher 8,303, \$105 50; what is that for? A. Lawrence Wilde & Co. for furniture.

Q. What was that furniture used for? A. For the Vermont Library in this building.

Q. Voucher 8,088, signed Minot & Muggeridge, Dec. 24th, what is that for? A. Legal expenses in procuring charter for Western N. H. Road.

Q. Where was the Western N. H. Road located? A. The Western N. H. Road extended from Bellows Falls to So. Vernon on the Hampshire side of the river.

Q. Mr. Merrill, will you explain to the Masters what the Trustees and Managers of the Vt. Central and Vt. & Canada Railroads had to do with the W. N. H. Road? A. They were interested in the building of the road from Bellows Falls to So. Vernon, on the New Hampshire side of the river. The Vt. Valley Road had been taken by the Rutland Road, and the freight was all diverted and sent over the Rutland Road. Instead of freight coming through over our road, it was unloaded at Bellows Falls and sent over their road, and the only way we had to prevent this diversion of freight was by a charter to build the line on the New Hampshire side.

Q. (By Mr. Dennison). I suppose the W. N. H. Road bore the same relation to the Vt. Valley Road that the Eastern Vt. Road did to the Sullivan? A. Yes, sir.

Q. Voucher 8082, dated Jan. 8th, 1868, \$600—L. S. Grover; what is that for? A. It is an addition to his pay for two years. He was complaining of not receiving enough pay.

Q. Voucher 8233, \$170, signed _____, dated June 10th, 1868; what do you know about that? A. It is for land damages. I think I looked over the ground with him.

Q. Voucher 8064, \$171.81, bill of furniture; where was that used? A. In the library of this building.

Q. What is this Vermont Central Library? A. A library in which the employees of the road own stock by paying an annual contribution. The road has nothing more to do with the expenses any further than that we provide the room, and furnished it for them. The library has been in use upon the road 20 years; the men take a share in it, and that gives them a right to borrow books.

Q. Voucher 8206, L. Brainerd's bill of expenses; is that in addition to salary? A. I presume it is.

Q. Voucher 8051, \$2005.56, A. Arnold; what is that for? A. It is some bills against the S., S. & C. Road, paid by the Vermont Central Road. Mr. Arnold took these bills and gave us a receipt for them.

Q. What account is that charged to? A. It should be charged to the S., S. & C. Road.

Q. I show you voucher 7796, \$1115.30, and ask you to read that voucher? A. "To expenses before the Legislature in resisting application by the Rutland and Burlington Road for a parallel line to Rouses Point; also, a bill to equalize freights, for putting in switches, and to protect persons who had paid fares from being put off the cars, etc. I see that amount is charged to the general expenses account by Mr. Williams; it is approved by J. Gregory Smith.

Q. In whose handwriting is that? A. Gov. Smith.

Q. Do you know anything about the bill. A. I don't.

Q. Do you know what interest the Trustees and Managers of this road had to oppose bills to equalize freights, and bills for putting in switches; and to protect persons who had paid their fare from being put off the cars? A. I think it was to their interest.

Q. You think it was for the interest of this road to oppose such bills as that? A. I do, certainly.

Q. I show you voucher 7766, \$7213.50, and ask you what that is?
A. I should judge it was money borrowed.

Q. Borrowed of whom, and for whom? A. Borrowed of the treasurer of the Sullivan County Road for the Vermont Central.

Q. Who was the treasurer of the Sullivan County Road? A. George A. Ketel, treasurer of the Northern Road.

Q. That was the road that Messrs. Clark and Smith took the lease of, was it not? A. The Sullivan County Railroad owned it, and leased it to Gov. Smith and Mr. Clark; this was money borrowed from that corporation: it had nothing to do with the lease of the road at all.

Q. Voucher 7806, \$375, dated Nov. 26th, 1867, signed Joseph Andrews; what is that for? A. For services as one of the committees of bondholders, for 9 months.

Q. Voucher 7804, \$200; what is that for? A. Subscription to State Fair in 1867, held at Burlington.

Q. Voucher 7651; what is that for? A. Stock in the St. Albans Hotel Co.

Q. Where is that stock of the St. Albans Hotel Co.? A. I don't know, sir.

Q. What does that voucher show? A. This is for subscription to the stock of the St. Albans Hotel Co.

Q. Now there must be some stock somewhere? A. I presume there is.

Mr. Fifield:—The Central Vermont has that stock.

Mr. Davenport:—I want to see to whom that stock was issued; I should like to see the stock, or the certificate of it; this voucher is only a blank piece of paper, it merely shows that \$8500 was paid to the St. Albans Hotel Co. This voucher for subscription to the stock of the St. Albans Hotel Co., is not signed, dated or approved.

Q. Voucher 7471, Oct. 26th, '67, signed John W. Newton; what is that for? A. An order of John W. Newton to Mr. Williams to pay George G. Hunt \$500 and charge the same to the Vt. & Canada R. R.

Q. Do you know what that was for, Mr. Merrill? A. I don't.

Mr. Davenport objected to this voucher on the grounds that there was no evidence to show what the amount was expended for.

Q. Voucher 7309, J. M. Pinkerton; what is that for? A. "To borrowed money of Pinkerton and paid him." That is for interest on the amount borrowed of him.

Q. Voucher 7260, John L. Mason; what is that for? A. It is for a wood lot with wood upon it, located near Middlesex.

Q. Voucher 7247, \$15,000; what is that for? A. It seems to be for money received from Mr. Taylor. I think it is to correct an erroneous entry.

Q. I show you voucher 7226, \$677 60, signed Andrew Tracey; what is that for? A. Legal expenses.

Q. Voucher 7219, signed J. M. Pinkerton; what is that for? A. Salary and expenses as one of Committee of Bondholders.

Q. Voucher 7227, L. P. Poland, \$671 30; what is that for? A. Legal expenses.

Q. Voucher 8957, B. F. Fifield, \$375 28; what is that for? **A**
Legal expenses.

Q. Voucher 8958, B. F. Fifield, \$2,340 66; what is that for? **A**
Legal expenses from March, '62, to June, '67.

Mr. Davenport offers in evidence statement of castings and wheels supplied by the St. Albans Foundry Co.'y, from July, '61, to July, '73, marked "Exhibit 36."

Mr. Walker puts in as evidence trial balance of the Vt. Central and Vt. & Canada Railroads, 1st July, '63, marked "Exhibit 37."

[Court here adjourned until 9 A. M., Friday morning, Aug. 6th.]

FRIDAY MORNING, AUGUST 6TH, 1875.

Court assembled at 9 A. M.

Mr. Merrill re-called by Mr. DAVENPORT.

[The following vouchers are series "G."]

Q. I show you voucher 4,041, G. F. Edmunds, for \$3,782 54 what is that for? A. For legal services rendered the Vt. & Canada, should judge.

Q. And paid by whom? A. By the Vt. & Canada, so it ports on the back of it. I know nothing about it except what it purpo to be.

Q. Voucher 2,819, dated May 13th, 1869, signed by Luke Poland; what is that for? A. General retainer in the railroad matt 1868, and advice and services in the same; \$500 yearly retainer.

Q. Voucher 2,076, dated Jan. 15, 1869, \$878.87, Dewey & Nobl what is that for? A. Legal expenses.

Q. 2,077, dated ———, for \$1,034 72; what is that for? Legal expenses.

Q. Voucher 4,049, May 3, 1869, Burt & Hall; what is that fo A. Legal expenses.

Q. How much does that bill show was paid to Burt & Hall? A. \$100 for general retainer on road business north of St. Albans, the b ance of \$100 is for services. There is a credit of \$100 cash received some previous time.

Q. Voucher 1,829, George G. Hunt, \$26, Dec., '68; what is th for? A. It is charged to legal expense. It refers to expenses of M Hunt in getting title from Jno. S. Eldridge at Northfield.

Q. I show you voucher 1,709, G. F. Edmunds, \$529 75, Nov. 1868; what is that for? A. Legal expenses.

Q. I show you voucher 1,708, Dec., '68, B. F. Fifield, \$1,545 1 A. Legal expenses for the year ending Dec. 1st, 1868.

Q. Voucher 417; what is that for? A. It is dated Aug. 5, 1 Benton & Wilson, \$161 75. The bill is for legal expenses.

Q. How much is their charge for retainer? A. \$100.

Q. Voucher 875, signed A. Tracy, Sept. 30th, '68, \$934 68; what is that for? A. Legal expenses it is charged up to.

Q. How much is for services before the Legislature? A. Six weeks attendance before the Legislature, and going to Malone and consulting about matter of Bridge at Rouses Point \$600.

Q. Voucher 873; what is that for? A. Legal expenses, D. C. Dennison, \$32 70, Oct., 68.

Q. No. 874, Oct. 1st, 1868, \$84 85; what is that for? A. Legal expenses.

Q. Voucher 734, Patterson & Lavender, \$30 50; what is that for? A. Walnut table for Mr. Hobart's office and letter press stand for Jo D. Hatch, Burlington, \$19.

Q. Did Mr Hatch have an office in Burlington? A. I think he did, sir.

Q. Did he have an office kept open for railway business? A. I don't know for certain; I think he had. I know nothing about that bill.

Y. Do you know any reason why that expense should be incurred for a letter press of and for Mr. Hatch? A. I presume it was necessary to copy letters he wrote on railroad business—he had some correspondence to do.

Q. I show you voucher 3366, for \$252 50 for J. C. Abbott; what is that for? A. Legal expenses connected with the S., S. & C. Road. He is a Montreal lawyer. That was a suit in Canada.

Q. And that bill represents an expense to which the Trust was subjected in consequence of the S., S. & C. Road purchase. This great litigation before the House of Lords in England, arose from the Trust taking the road, did it not? A. The necessity of this road's buying it was the result of that case.

Q. Should not the expenses of that great law suit be charged to the S., S. & C. accounts? A. Probably it should.

Q. There would have been no occasion for the employment of lawyers in Canada and other legal expenses, if the Trust had not taken that road, would there? A. I suppose not.

Q. I show you voucher 1551, for \$615 45, Nov. 21st, 1868—Jo D. Hatch; what is that for? A. Expenses at Montpellier, session 1868, in resisting adverse legislation and opposing plan to construct parallel road from Burlington to Canada Line.

Q. Voucher 2012—Jo D. Hatch, Jan'y, 1869, \$447 63; what is that for? A. Cash paid travelling and incidental expenses on business of the Company, year ending December, 1868.

Q. What is covered by that term "incidental expenses"? A. I don't know; he may have purchased stationery, postage stamps, etc., and that amount may include such expenses.

Q. I now call your attention to voucher 1254, B. W. Spence, \$240, Aug. 24th, 1868. A. That belongs to the same series as the others—services at Washington.

Q. Voucher 709, for 481 50, I presume is of the same class? A. Yes, sir; two months' services. Some of the services were rendered in

Washington and some in Boston. He succeeded in getting a considerable sum from the Government that was due to us.

Q. Voucher 3629, Jo D. Hatch, \$166 67; what is that for? A. Additional salary, March 1st to July, '69, at the rate of \$500 per year.

Q. I show you voucher 226, for \$500 00, July, 1868, what is that for? A. Subscription to State Fair, 1868; held at Burlington, I think.

Q. Was that Fair upon the line of this road? A. Yes, sir.

Q. Did this road have the control of that part of the road from Essex Junction to Burlington? A. Yes, sir.

Q. Vouchers 843 and 4, signed Ambrose Arnold, amounting to \$400 altogether; what do you know of these vouchers? A. They are for services upon the M. & Vt. Junction for the year ending 1867. He acted as Assistant Divisional Superintendent there and also as Road-master.

Q. (By Judge Poland). In making up the earnings and expenditures of that road that amount should be reckoned, should it not? A. Yes, sir.

Q. And was it? A. No, sir, it was not. All the expenses were not charged to the road. But it made no difference which way it was, the Central paid the expenses, any way. This amount, of voucher 843, should be charged to that road; I don't know why it was not. All the expenses accruing exclusively upon that road should be charged upon the books of that road.

Q. I show you voucher 706, for \$294 05, Joseph Andrews; what is that for? A. For services as Committee of Bondholders.

Q. Voucher 704, John Nelson, Aug. 30th, 1868; what is that for? A. Provisions for Gov. Smith and party, \$30, while on a trip examining the road from St. Albans to Bellows Falls. Mr. Nelson kept the restaurant in this depot.

Q. I show you voucher 167, J. G. Smith and Joseph Clark, \$853 92; what is that for? A. Premium on Canada currency, Aug., '66—40 per cent.

Q. Do you know why Clark and Smith got that currency? A. I do not.

Q. Did it come from the S., S. & C. Road? A. That road did not belong to them then. I don't know where it came from. It did not come out of the earnings of that road.

Q. Voucher 1255, \$7, Rollo Guernsey, for carrying despatch to L. H. Tucker, Stanbridge; what is that for? A. That was in the case of an accident where a son of Mr. Tucker was injured, and we sent that despatch to his mother, who came to see him.

Q. Voucher 1517, \$9 52, G. L. Bond, bill of repairs on the Sullivan Road; it is so entered on the back? A. It is probably charged to the Central account by mistake. It is entered on the face "the Sullivan Railroad," but, upon the back, in Mr. Forbes' handwriting, "Sullivan Road." It is entered by him to the Central. He evidently understood it was to go to the Sullivan Road, for he has written "Sullivan Road." It must have been a mistake of his.

Q. So, as far as you can judge, that should have been charged?
A. Yes, sir. It is certified by Mr. Bennett, Road Master of the Sullivan Road.

Q. (By Mr. Fifield.) Suppose the Trustees paid that bill of the Sullivan Road, it would be entered upon the Trustees' books as having been paid, would it not? A. It would appear on their books if they paid it; but this should have been entered to the Sullivan Road.

Q. (By the same.) But would it not in the first instance appear in the Trustees' books and then be transferred to the Sullivan Road? A. It would not unless it appeared upon the back "charge Sullivan Road." This is made out on a Central blank.

Q. (By the same.) Take that matter of stationery—were not those bills paid in the first instance by the Trustees and then charged over to the Sullivan Road? A. Yes, but they were charges made from time to time, and the Central would in the first place procure the stationery and then supply the Sullivan Road. This is a bill in which the Sullivan Road was interested alone and all such bills should have been made on a Sullivan blank and charged to the Sullivan books.

Judge Poland:—It is clear that if this amount has not been charged to the Sullivan Road it should be, that we concede.

[Voucher 1,271, \$4,000, G. M. Dexter, president of Vt. Central R. R. and Trustee of second mortgage bondholders. Copy to be made and marked "Exhibit 38." Put in by Mr. Davenport.]

Q. Mr. Merrill, I show you voucher 1,541, being a bill of expenses Western N. H. R. R., \$1,150, and ask you to state to the Masters how and for what purpose these expenses were incurred? A. It relates to the surveys of that road entirely.

Q. (By Mr. Fifield.) State what was the object of that performance, Mr. Merrill. A. As I stated yesterday, the Rutland Road having obtained possession of the Vermont Valley Road used it for the purpose of diverting freight coming from points Belows Falls to Burlington and points north of Burlington.

Q. (By Mr. Fifield.) They used to unload freight from your cars into theirs, did they not?

A. (Continued.) The Rutland Road would unload freight from our cars into their cars and divert it. Freight could not be directed so strongly as to ensure its being sent this way. Parties were complaining to me of their freight not coming over the Central Road. I gave instructions to parties at New York and other places how to mark and deliver their freight and it was way billed in accordance with my directions, and yet the freight was diverted; and in order to prevent that practice, this road, the Western N. H., was projected, the charter taken and the road surveyed. This was the expense of the surveys. The Conn. River Road paid half the expenses, as it appears by these receipts. They left our passenger trains at Bellows Falls when our train was late, and went off without our trains.

Q. What road was most embarrassed by these difficulties, the Sullivan Road, or the Vt. Central and Vt. & Canada? A. Both the Vt. Central and Vt. & Canada were most embarrassed, because they were most interested. The natural route, I suppose, for freight from

New York and below, to points north of Burlington, would be by way of the Sullivan Road and White River Junction. If it was destined for Burlington the other route would be the natural route.

Q. How much further is it from Bellows Falls to Burlington by way of White River Junction and Essex Junction than it is by way of Rutland? A. 23 or 24 miles.

Q. Will you look at voucher 1541 and tell me what officer of the road approved that bill of expenditure? A. It was not approved by any officer of the road. Mr. Williams, Treasurer, paid the amounts, and I have no doubt but that he can tell you more about that point than I can.

Q. I show you voucher 1556, \$2, what is that for? A. I don't know, sir. It says, "Correct, G. S. Appleton, by order of Governor Smith—for T. H. Canfield." I have no knowledge of what that is.

Q. I show you voucher 2430, for \$1250, dated February 8th, 1869, will you please read that voucher.

A. "WASHINGTON, Feb'y 8, 1869.—The Trustees and Managers Vt. Central and Vt. & Canada R. R., to Mrs. M. C. Wheeler, executrix of the last will, etc., of the Rev. John Wheeler, deceased Dr., for the signing and risk upon the injunction bond taken in 1855 by Chancellor Poland, in the case of the Vt. & Canada R. R. vs. the Vt. Central R. R. and others in Chancery, for Franklin Co., compromised in this sum \$1250.

Received payment by draft.

GEO. F. EDMUNDS, Att'y for Executrix."

Q. (By Mr. Underwood.) Is that amount charged to the Canada Road? A. It purports to be on the back of it.

Q. I show you voucher 2150 for \$50.96, signed W. J. King; what is that for? A. For services as one of the committee of bondholders; he was a member of that committee for one or two years.

Q. I show you voucher 2148, for \$567, dated Feb. 11, 1869, signed by the same; what is that for? A. Services as committee of bondholders.

Q. Voucher 3638, for \$500; I see nothing to support the charge; will you explain what the Trust got for that amount? A. Mr. Bowditch was one of the employees of the road at the time of the bridge accident, and had his leg broken. He was a poor man and we furnished him medical attendance, and let his wages run on for a few months. He then got so that he thought he could do some business, perhaps keep a small grocery store if he could get the money to start it. I took his note for \$500, which note I presume is in the treasurer's hands.

Q. You loaned him \$500 and took his note for it and lost it? A. I do not know whether the note is lost or not; the amount may have been collected from him before this.

Q. There is nothing here in support of this voucher? A. I know his note was taken when he had the money, and I took from him a receipt in full for all damages.

Q. I show you voucher 3696, Geo. W. Fellows; what is that for? A. A payment of \$200 purporting to be for advertising; I think it was for advertising in some of the summer guides, for summer travelling. The bill is dated New York, June, 9th, 1869.

Q. Voucher 2252, in favor of the Mount Washington Railroad, September 10, 1868, for \$5102.50; what is that? A. It is charged to notes payable. Mr. Williams can explain it. I don't know what it was for.

Q. Was there any stock subscribed for by these Trustees in the Mount Washington Road, to your knowledge? A. Yes, sir; I think \$5000, but I may be mistaken.

Q. Does the Mount Washington R. R. connect with any railroad operated by this Trust? A. It does not.

Q. Does it connect with any line projected by the Trust, to your knowledge? A. No, sir. I know the other roads interested took stock. It is a great advantage to have a line this side of the Mountains; it draws traffic this way instead of by the way of the G. T. R., on the other side. I mean traffic between the Mountains and New York and Saratoga. The road was connected by stage lines with this route.

Q. What other roads contributed, Mr. Merrill? A. The Passumpsic and I think the Concord.

Q. I show you voucher 3411, dated June 3d, 1869, signed John Nelson, \$15; what is that for? A. Refreshments for Directors.

Q. What directors? A. It does not state. Mr. Nelson kept the Restaurant in this depot. The refreshments may not have been for Directors. Probably in sending in his bill he put "Directors," when he probably meant Managers, and possibly, officials of the road.

Q. Voucher 4089, signed John Nelson, \$15; is that the same as the last? A. I presume it is. I suppose I knew at the time who the refreshments were for, because I approved the bill. The refreshments may have been for officers of the road. I don't remember now who they were for.

Q. Voucher 3969, for \$1,700 11, Aug. 4th, 1869, Joseph Clark?

A. With regard to the other bill, I would say that about every year the Railroad Commissioner of the State went over the road with the Bridge Master, Road Master, &c., and this charge for refreshments may have been one of those cases.

Q. I show you voucher 1552, in favor of J. F. Fanning, for \$11 75, and ask you what that is for and how it accrued? A. It is for services as engineer. The road was short of water at St. Albans and employed him to ascertain whether we could get water from the pond at Fairfield, or any other place. He made surveys and reports.

Q. Was it not for a survey in connection with the St. Albans water works. A. No, sir. I think it was before they were thought of, but perhaps their construction may have resulted from this survey.

Q. Voucher 1581, signed W. C. Smith, \$50; what is that for? A. Five days in Boston signing coupons to bonds. It does not state what bonds.

Q. Voucher 1999, in favor of R. T. Bailey, for \$870.51; what is that for? A. Engineering expenses and surveys. He was engineer of the road.

Q. In and about what matter was that expense incurred? A. It was upon the Central Road, Mississippi Valley Road, and at Burlington;

he was employed some years by the road. This was his salary for the months.

Q. Is not some of that amount for services as engineer on the Missisquoi Road? A. The only amount incurred on that road is an item of \$65.30. I presume that amount is charged to that road.

Q. Voucher 2008, S. W. Thayer, \$150? A. He was employed by the road as physician, and we called upon him whenever we wanted him to go to any part of the road. He went to Northfield at the time of the bridge accident.

Q. I show you voucher 2149, Otis Drury, \$540.19. and ask you what that is for? A. Service in connection with the bondholders committee.

Q. Voucher 3662, L. P. Macindon, \$3.50; what is that for? A. Advertising in connection with the Eastern Vt. Railroad; it is made out to the Eastern Railroad. I should judge it was for the Eastern Vt. Railroad, but I may be mistaken.

Mr. Baker called and sworn; direct examination by Mr. DAVEL PORT.

Q. Where do you reside, Mr. Baker? A. Stanbridge.

Q. Whether you are a stockholder of the M. & Vt. J. Railroad? A. I was a stockholder, and owned 20 shares.

Q. Who were the other stockholders in that road? A. That is impossible for me to state without reference to my books.

Q. From whom did you obtain your stock? A. From the original subscription.

Q. Have you ever received any dividends upon that stock? A. I have not.

Q. Have you in your possession any book or paper that will show who the stockholders are? A. Yes, sir; in my office, in Canada.

Q. Have you any objection, Mr. Baker, to allowing the books and copies of them to be brought here before the Masters? A. According to our laws as I understand these things I have no right to exhibit these books to any but Directors of the Co.

Q. When you say laws, do you mean the laws of the Province of Quebec? A. Yes, sir. I have been connected with the bank when I reside as well as the Railway Co. and I understand that it is in accordance with our law to let Directors only have access to the books of a Company. I don't think I have any right to give any one else access.

Q. Are there any courts in the Province of Quebec that can order an inspection of these books? A. Very likely if I had an order from the Court I could get them, but not under ordinary circumstances should I consider myself justified in showing these books to any one except to the Directors of the Co.

Q. Have you ever made copies of these books? A. No, sir.

Q. Do you know of any copies being in existence? A. I do. There have sometimes been memorandums made from the books for the use of Directors, but whether there have been any copies made I do not know.

Q. What salary did you receive for your services as clerk of the Co.? A. \$100.

Q. What as Treasurer? A. Nothing.

Q. Who pays your salary? A. I receive the money here.

Q. From whom? A. From the Treasurer at the office here.

Q. Does the corporation of the Montreal & Vt. Jct. R. R. make yearly reports to its stockholders? A. No, sir.

Q. Has there ever been any such report made? A. There have been reports made by the Managing Directors.

Q. Who are the the Managing Directors? A. J. Gregory Smith, Joseph Clark, J. D. Hatch; they are all I can recollect without reference to the books.

Q. When were there such reports made? A. I cannot tell you.

Q. Were they printed or written reports? A. Written.

Q. How much of the stock of that road does J. Gregory Smith own? A. I cannot tell you without reference to the book.

Q. About how much? A. It would be mere guess work if I told you; I should think in the neighborhood of \$100,000.

Q. How much does Mr. Clark own? A. About the same amount.

Q. How much does Mr. Hatch own? A. I cannot tell; I think his original subscription was \$1,000.

Q. What is the capital stock of that Co.? A. That I cannot tell you without reference to the charter.

Q. How much was subscribed for? A. I cannot tell you.

Q. Who built that road? A. Mr. Linsley had the contract to build it. First it was Mr. Linsley, and he failed to build it, and as I understand, (not from any certain knowledge on my own part) that Messrs. Clark and Smith took it off his hands and finished it.

Q. Do you know what that road cost? A. I do not.

Q. Have you any books anywhere in your possession that will show what it cost? A. No, sir.

Q. Was there not any construction account kept of that road in the Treasurer's office? A. Not in my office, sir. Only a small part of the funds passed through my hands.

Q. Did you ever find out how much that road cost? A. I never did.

Q. Have you taken any steps to ascertain? A. I never did.

Q. Have not cared anything about it I suppose. A. No, sir, I have never been particularly interested in it.

Q. Did you ever pay for the stock you put in? A. I did.

Q. How much did you pay? A. About \$600 in cash and the balance was allowed for my services as Secretary and Treasurer.

Q. How much was allowed for your services as Secretary and Treasurer? A. \$400 for some three or four years.

Q. You never have received any dividends and own that stock still? A. Yes, sir, I do.

Q. And never inquired why you have not got any dividends? A. I was told the earnings of the road were not much more than enough to pay interest on the bonds.

Q. How many bonds are there outstanding? A. 200,000 I think.

Q. Where are these bonds? A. I don't know.

Q. At what rate per cent. do the bonds bear? A. 8 per cent., if I recollect rightly.

Q. Were these bonds issued by the towns? A. No, sir, by the Railway Co.'y. We were authorized by the charter to mortgage the road.

Q. How were you informed and by whom that the income of the road was no more than sufficient to pay the interest on the bonds? A. Well, I don't know that I can say. I don't know that I was ever informed. It is information that I got from conversation with Managing Directors. I don't know that I was ever told distinctly that such was the case.

Q. Did you ever see any reports made by the Managing Directors which contained any statement of that kind? A. Yes, there was a report made one year—a year or two after the road had commenced running.

Q. And that report contained such a statement, did it? A. Yes, sir, I think it did.

Q. Do you know what the income of that road has been since it was completed? A. No, sir, I don't.

Q. Have you taken any steps to ascertain? A. No, sir, I never have.

Q. Do you know how the road has been operated? A. I don't, except that I have understood it was operated by the Vt. Central Road.

Q. Do you know what share of the gross earnings of the M. & Vt. J. is taken by the Vt. Central? A. No, sir, I do not.

Q. Never have heard? A. Never.

Q. Has it been reported to the Company, to your knowledge? A. Well, I think that it was reported at one time that they were to operate the road for 50 per cent.; but still, I have no knowledge except by hearsay.

Q. Do you mean 50 per cent. of the gross earnings? A. Yes, sir.

Q. Is there anything in your office in the shape of books or papers that shows the contract between the M. & Vt. J. and Vt. Central Roads? A. No, sir, there is not. There was a resolution passed once authorizing the Managing Directors to make a contract, but there was never one made, as far as I know.

Q. How long is it since that resolution was passed? A. I cannot say; probably seven years ago.

Q. Was it about the time the road was opened? A. I think some little time after.

Q. When was that road opened? A. Well, it must have been in '64 or '65. I cannot tell you exactly.

Q. You say Mr. Linsley took the contract in the first place, and then failed to complete it, and you understand Messrs. Clark and Smith completed it? A. Yes, sir.

Q. Who did you understand that from? A. Well, I don't know as I can tell you that, that is what I have heard.

Q. Was there any apparent change in the construction of the road? A. Not that I know of.

Q. Mr. Linsley had charge of the work same as before, had he not? A. I cannot exactly say.

Q. Was not the road being built in your vicinity? A. Well, it was about 6 miles from where I then lived.

Q. How much did the town of Stanbridge contribute to the building of that road? A. They furnished in bonds ~~\$500,000~~ ^{\$500,000} nominally. *Unad*

Q. What do you mean by the term nominally, bonds? A. They did not sell for \$500,000 but that amount was subscribed, and the company took it in Municipal loan bonds.

Q. How much did they sell for? A. I don't know.

Q. You say they did not sell at par? A. That was what I understood, but I cannot say what they did sell for; I have no recollection.

Q. How much was the subscription by the other towns? A. St. Armand \$15,000, and the village of Phillipsburg, \$2000, as near as I can recollect, that makes \$67000 of subscription by the Municipalities.

Q. Does your town of Stanbridge still own its stock? A. No, sir; it was sold to Mr. Clark and Mr. Smith, I think.

Q. Who was the Mayor at that time? A. John Gough.

Q. Did Mr Gough advise the sale of the stock? A. I think he did, sir.

Q. What price did it bring? A. 25 per cent.—gold.

Q. What knowledge had you of Mr. Gough being employed by Smith & Clark to buy that stock? A. I have none; I never had any knowledge of his being so employed.

Q. Do you know of any money being paid by Mr. Clark or Gov. Smith to Gough? A. I do not; I never heard of any.

Q. You say there was \$200,000 in bonds? A. Yes, sir; that was my impression.

Q. Do you know what they sold for? A. I do not. I delivered them to the managing directors and they were signed.

Q. Who were the managing directors then? A. Mr. Smith, Mr. Clark and Mr. Foster.

Q. Was that before the road was completed? A. Yes, sir.

Q. How long before? A. I do not remember; I think the road commenced running the next February, or in the winter of the next year.

Q. At that time had Mr. Linsley abandoned his contract? A. That I cannot tell you; I don't know.

Q. How did you know that he did abandon his contract? A. Well, it was more from common rumor than anything else. I never talked to Mr. Clark or Gov. Smith about the matter.

Q. Do you know, or did you ever hear why he abandoned his contract? A. I do not. I understood he was unable to carry it out.

Q. Do you know how much he contracted to build that road for? A. Well, it was something between four and five hundred thousand dollars.

Q. Can you tell how it was made up; that is, how Mr. Linsley was to be paid? A. In cash, bonds, notes and stock of the Company; but as to the items, it is very difficult for me to recollect. I think he was to have \$100,000 in gold, \$200,000 in bonds, \$100,000 in stock, and \$40,000 notes of the Company; that is, as near as I can recollect now.

Q. Have you in your possession that contract, or a copy of it? A. No, sir; except that it is in the books of the Company.

Q. Written in the books? A. Yes, sir.

Q. Is it signed by Mr. Linsley on the one part, and by Foster, Smith & Clark, on the other part? A. I could not say as to that; I don't recollect.

Q. Is there any record upon the books of the abandonment of the contract by Mr. Linsley? A. I don't recollect any. Mr. Hatch was Secretary of the Company at that time; I was only Treasurer.

Q. While Mr. Hatch was Secretary of the Company, where was the office kept? A. He kept the books, but where I don't know.

Q. Are Mr. Hatch's books in your possession? A. Yes, sir. There are the same books at my office.

Q. How long did Mr. Foster continue to be Managing Director of the road? A. I cannot tell you.

Q. Do you know whether he ceased to be a Managing Director after the road was completed? A. O, yes, there is a record on the books.

Q. Did Mr. Hatch take his place? A. Yes, sir, but I could not say when that was. I don't remember.

Q. What amount of interest did Mr. Foster have in that road—that is, how large a stockholder was he? A. I think he subscribed \$2,500 to the original subscription.

Q. Did he increase his subscription afterwards? A. Yes, he increased it by \$500 by purchase from another party.

Q. Does he stand now upon your books as a stockholder? A. Yes, sir.

Q. To what amount? A. As near as I can recollect, it is \$3,000.

Q. He owns \$3,000 of stock at this time? A. Yes, sir, if I remember rightly. That is the best of my recollection.

Q. How long is that road? A. 21 or 22 miles.

Q. Does that road run into St. Johns? A. Well, it joins the S., S. & C. Road about $1\frac{1}{2}$ or 2 miles from St. Johns.

Q. Which was completed first, the S., S. & C. Road or the M. & Vt. J'ct.? A. The S., S. & C. Road.

Q. About when was that road completed? A. It is impossible for me to tell. It must be fifteen or twenty years ago.

Q. Do you know how the S., S. & C. Road was operated before the M. & Vt. J'ct. was built? A. I do not, sir.

Q. How near do you live to that road,—that is, the S., S. & C. Road? A. Thirteen miles from the nearest point.

Cross-examination by Mr. FIFIELD.

Q. You say you were told that the earnings of the M. & Vt. Road were being appropriated to pay interest on the bonds? A. That is how I understand it.

Q. And you say, further, that that is the reason why dividends are made to the stockholders? A. Well, I won't say that I was told that; that was merely my inference.

Q. Besides these bonds, did you not issue a large amount of notes to the Company? A. Yes, sir.

Q. Was there not other indebtedness against the Company, growing out of the construction of the road, for right of way? A. I think there was.

Q. Were you not informed that the earnings of this road were being appropriated to pay its indebtedness and interest on its bonds? A. I won't say I was told so, because I did not take much interest in it.

Q. It was represented to be so, was it not? A. It was, sir.

Re direct examination by Mr. DAVENPORT.

Q. Do you understand, Mr. Baker, that the construction of that road cost more than \$440,000? A. Yes, sir, I understand that it cost a great deal more than the original amount. I could not say how much more.

Q. Has the company ever agreed to your knowledge to pay any more than that amount? A. No, sir, not to my knowledge.

Q. You say there were a large number of notes issued by the Company? A. Yes, sir.

Q. Who issued them? A. The president and myself.

Q. What amount of notes was issued, and by whose order? A. I do not remember the amount; they were issued by order of the Managing Directors.

Q. Is there any record of the notes being issued? A. Yes, sir.

Q. And in your possession? A. Yes, sir.

Q. About how much did the company issue its notes for? A. That would be a difficult thing for me to tell now.

Q. Well, about how much? A. I think about \$40,000 was issued to Linsley, then I think there were afterwards notes given for expenses against the road, such as procuring charter and expenses for right of way, &c. It is difficult—it is impossible for me to tell what the amount was without reference to the books.

Q. Did the company ever issue any notes to Joseph Clark or J. G. Smith to your knowledge? A. Yes, I think notes were issued to the Managing Directors.

Q. For what amount? A. I don't recollect.

Q. It was on their order, I suppose? A. If I recollect rightly they were payable to their order.

Q. Have you not any idea how much? A. No, sir. I should not dare to state, it is so indistinct in my mind.

Q. I suppose you have a record of all the notes issued while you were Treasurer. A. Yes, sir.

Q. Who authorized you to issue those notes? A. They were authorized by vote of the Board of Directors.

Q. Who were the Board of Directors? A. That board consisted Gov. Smith, T. H. Moore, A. B. Foster, Joseph Clark, Mr. Desriere, Mr. Hatch, Lawrence Brainerd, and—well, I think that is

all. I should not sign any notes unless I was authorized by the board; we could not do it legally without.

Q. Are you willing to hand in a statement of the amount of notes which were issued by the company from your books, and to whom they were issued? A. I should not do it without an order from my Directors.

Q. Is there anything upon your books showing that the earnings are being appropriated to pay the indebtedness against the company? A. No, sir.

Q. Has there been anything of that kind? A. There was a note given for \$10,000. The money was borrowed from one of the banks at St. Albans, I think; I paid part of that note out of monies received for subscriptions and stock.

Q. Was that since the arrangement was made with the Vermont Central to run that road? A. I don't remember.

Q. Is there anything on the books showing any note or appropriation of money to pay debts against the company? A. I think not, without you might consider the issuing of these notes I mentioned.

Q. Who collected the stock subscriptions? A. I did. I collected all the subscriptions in my locality.

Q. Did you collect in any other locality? A. I don't remember if I did.

Q. How much money came into your hands as treasurer, all told? A. I could not answer that question. I have no idea.

Q. (By Mr. Fifield.) This \$440,000 you spoke of as the amount for constructing the road was to be in gold, was it not? A. Well, \$100,000 was to be paid him in gold, I think, according to the contract, that would be payable in Canada currency.

Mr. Merrill recalled by Mr. DAVENPORT.

Q. I show you voucher 6,879, Jo D. Hatch, for \$43 15, Jan. 1st, 1870; what is that for? A. Cash paid for travelling and incidental expenses to Dec., 1869.

Q. Voucher 5,878, for \$44 75, signed Jo D. Hatch; what is that for? A. Attendance and expenses as director of the Vermont Central R. R. I should judge.

Q. Voucher 7,393, signed Jo D. Hatch, dated June 18, 1870; what is that for? A. For \$100 subscription to firemen's muster, it does not state where.

Q. Voucher 5,341, for \$200, dated Dec. 2, 1869; what is that for? A. Subscription to Fair ground and State Fair held at Burlington Sept. 1869, \$200.

Q. I show you voucher 6,466, for \$900, J. & J. M. Poland, March 4th, 1864; what is that for? A. For printing general freight tariff in connection with Northern N. H. and Cheshire Roads. That was the charge book of freight tariffs.

Q. Was that a joint tariff agreed upon by those roads? A. I presume it was.

Q. Why should not those roads bear some of the expense of printing and binding—why should this road pay it all? A. It was a tariff from points upon this road to points upon the other roads mentioned.

Q. Should not the expense have been divided? A. I cannot tell. The bill has Mr. Hobart's approval and is certified as correct by him.

Q. What did you want of 1000 copies, for use on this road? A. We had to supply the station agents.

Q. Would it take a thousand copies to supply station agents? A. I don't know much it would take.

Q. Would it take 300? A. I don't know what it would take. Mr. Hobart can explain that bill—it was done in his department.

Q. I show you voucher 6,753, George G. Smith, \$300, March 23, 1870; what was that for? A. One year's salary as clerk of Vt. Central R. R.

Q. Is that the same service that E. W. Peck charged \$100 per year for? A. I presume it is.

Q. Have the services of the Clerk of the Vt. C. R. R. been any more onerous since George G. Smith was appointed than they were before? A. I don't know.

Q. Who approved that bill? A. Gov. Smith.

Q. I show you voucher 6714, signed by Luke P. Poland, \$750; what is that for;—read the items, please? A. It is for legal expenses and is charged to that. Amount of retainer, \$500; services before railroad Investigation Committee, on various matters, \$250; total, \$750.

Q. Does that refer to the Legislative Committee? A. I presume it does. I should judge so.

Q. I show you voucher 6711, for \$500, signed Chas. W. Willard; what is that for? A. Services as attorney, 1870.

Q. What services did he perform for this Trust, to your knowledge? A. I don't recollect now. I think he was employed in some matters relating to the road, but I don't know anything further about it.

Q. I show you voucher 6713, Dewey, Noble & Smith, \$101; what is that for? A. Legal expenses.

Q. Voucher 4675, Benton & Wilson, \$119; what is that for? A. Legal expenses.

Q. I show you voucher 5774, signed B. F. Fifield, amount \$1,629 25; please say what that is for? A. Salary and expenses for legal services.

Q. Voucher 5864, Otis Drury, \$524 97, dated Jan. 13th, 1870; what is that for? A. Services as one of the Committee of Bondholders.

Q. Voucher 5818, dated Jan. 28th, 1870, Clark and Smith, \$823 80; please say what that is for? A. Premium on Canada currency, at 23 per cent.

Q. Can you tell where the Canada currency came from? A. No, sir, I cannot.

Q. I show you voucher 5865, for \$583 50, dated Jan. 12th, 1870, and ask you to state what it is for? A. Services as one of the Committee of Bondholders—J. M. Pinkerton.

Q. I show you voucher 5636, Eastern Vt. R. R. Co; what is the amount of that and what is it for? A. The amount is \$7; I presume it is for advertising for Eastern Vt. R. R.

Q. I show you voucher 5616, New England Lithographic Co., for the amount of \$68, and ask you to state what that is for? A. "Printing passes and altering plate—that was for the annual passes.

Q. How much is that bill and how many passes were printed? A. \$68; 2,400 passes.

Q. Were those 2,400 passes all used that year? A. I presume not.

Q. Why were so many printed if they were not wanted to be used? A. Well, we used a great many of our exchange passes with other roads. Nineteen twentieths of the passes on this road are exchange passes with other roads.

Q. Do you mean to be understood that nineteen twentieths of the passes issued by this management are exchange passes? A. Well, I may not perhaps be correct in saying $\frac{19}{20}$, but a very large proportion of them are.

Q. I show you voucher 5340 for \$100, Globe Bank, Boston; what is that for? A. It says "for compensation as agreed upon?" I am not quite sure what it was for; perhaps for bank coupons.

Q. Is it for negotiating loans? A. I don't know. I should think it was on account of coupons.

"For compensation as agreed upon;" with whom? A. B. P. Cheney. I think if it had been for selling bonds it would have been so stated.

Q. I show you voucher 5300, \$117.50, signed Bradley Barlow; what is that for? A. For money paid H. A. Berrett as retainer, in 1869.

Q. I show you voucher 5301, Z. E. Howard, \$4482.67; what do you know about that voucher? A. I should judge it to be for land damages on the Burlington branch.

Q. I show you voucher No. 5063, for \$1368.83, which is endorsed Missisquoi Valley Railroad; please tell us what that voucher is for? A. For engineering services upon that road.

Q. What did the Trust have to do with engineering services upon the Missisquoi Valley Railroad? A. I don't know anything about that voucher; Gov. Smith will be able to explain that voucher better than I can.

Q. Do you know of any reason why that bill of \$1368.83 for services on the Missisquoi Road should be charged to the Trust? A. I think it is charged to the Missisquoi Railroad upon the books.

Q. Has it ever been paid? A. I don't know, sir; the books will show; probably Mr. Williams can tell. Mr. Williams says it has been paid by the Missisquoi Valley Road.

Q. Is that true also of voucher No. 5062? A. I don't know, sir; Mr. Williams can tell you.

Q. (By Mr. Fifield.) Mr. Merrill, will you please explain in reference to the \$2 you testified about yesterday, which amount was charged to the Central Road when the voucher showed that it should

be charged to the Sullivan Road? A. Upon an examination of the books I find the amount credited to the Trustees and Managers, and charged over to "Depot account," Sullivan Road. The voucher for this amount was 1517.

Mr. Williams re-called.

Q. Voucher 4781, M. Hall Stanton, dated Nov. 23, 1863, for \$41.10; can you say what that is for? A. For expenses from Philadelphia to Boston and return, to attend a meeting of bondholders committee.

Q. Voucher 4532, M. H. Stanton, \$28? A. That is for expenses similar to the other.

Q. I show you voucher No. 4439, signed by L. Millis; amount \$469 25; portion of account rendered and approved by B. & L. R. R., and National Steamship Co.; what is that for? A. I don't know, sir; Gov. Smith can explain that.

Q. Voucher 5734, \$10 50; what is that for? A. It seems to be for expenses of Mr. Bennett.

Q. On what road does that purport to be? A. That is a Sullivan Road voucher and should be charged to that road.

Q. Do you know whether it was or not? A. I do not.

Q. It should be charged to that road if it is not? A. Yes, sir.

Q. Voucher 5823, H. B. Filer, \$50; should not that be charged to the Sullivan Road? A. I would state in regard to these two bills, that it is probably my error if they are not entered up to the Sullivan Road account.

Q. Voucher 6339, Jan. 1st, 1870, Dr. S. W. Thayer, \$200, for professional services from Dec. 30th, 1868, to Dec., 1869. Who was Dr. Thayer? A. He was employed in cases of accident on the road, and in cases of injury to the men, he would attend to them without any charge. He was the physician of the road, and I think we paid him a certain amount annually.

Q. Voucher 5880, \$117 75, signed M. Hall Stanton; please say what you know of that voucher? A. I understand it to be his expenses to St. Albans as one of the Committee of Second Mortgage Bondholders.

Q. Voucher 5910, for \$2,500, signed Gyles Merrill; what is that for? A. It is deeds for wood lots.

Q. Where are these deeds? A. In the Supt's office, I believe.

Q. Do you know to whom these deeds were given? A. I do not. They were given through the Trust, I suppose.

Q. Voucher 6727, \$243 42, Wilde, Berger & Moore, acknowledging receipt of a bill of exchange? A. That is legal expense in the matter of the bridge at St. Johns.

Q. Voucher 6755, B. W. Spence, \$587 11; what is that for? A. That is of similar nature as the preceding ones, signed by the same individual.

Q. Vouchers 6725 and 6726, in favor of Charles Amsden, \$239 20; what is that for? A. Amount charged to the Vt. & Canada R. R. for ne. These vouchers were some payments made by the station agent

at Windsor. The vouchers were lost by him, but when that depot was repaired they were found, and Mr. Forbes put them in and took the money for them; that is the reason of their being dated so far back.

Q. Voucher 6839, B. Poole, \$250; what is that for? A. For services of self and others to secure reduction of taxes on railroads.

Q. Is that for lobbying at Washington? A. I don't know, sir.

Q. Suppose you read the voucher? A. "Jan., 1870, received of the Vt. Central and Vt. & Canada Railroads, by the hands of B. P. Cheney, Esq., \$250 for services of self and others in move to secure reduction of taxes upon railroads,—B. Poole." I don't know anything about that any more than appears on the face of it.

Q. I show you voucher 6483, \$150, and ask you what that is for? A. Amount presented to the Washington Fire Co. for services at a fire at St. Albans in saving some lumber and a boarding house owned by the company.

Q. I show you voucher 6917, April 1st, 1870, and ask what that voucher shows? A. That the Trust were paying for tallow oil and extra tallow oil \$1.25 per gallon; winter signal oil \$1.50 per gallon.

Q. Voucher 7233, \$102.83; what is that for? A. I cannot explain it until I go to Rutland. I presume it is an amount that I sent to Mr. Cheney, and he neglected to return the voucher.

Q. Voucher 7487, signed by L. S. Grover; what is that for? A. Cash for secret service at White River Junction, \$50, for the services of two detectives \$25 each.

Q. I show you voucher 7576, to the Rome Iron works, and ask you what is that for? A. Freight upon 56 cars of iron, \$1390.18.

Q. From what point? A. From Potsdam Junction to Rome. The remainder of the way there would be no freight charged, because it would be over our roads.

Q. Voucher 7481, signed by J. B. Lynch, July, 1870, for \$883.45; what is that for? A. Services as detective at White River Junction.

Q. Voucher 6712, Dewy & Noble; what is that for? A. Legal expenses, \$1256.73.

Q. Voucher 8174, \$300; what is that for? A. Subscription to State Fair at Burlington in 1870.

Q. Voucher 8176, signed K. S. S. ———. for self and B. Pool, \$250; what is that for? A. The amount paid to them for services in the matter of reduction of taxes on railroad corporation, July 27th, 1870. I don't know anything about that.

Q. By whose order was it paid? A. Mr. Cheney's, I presume, taking this voucher in connection with the other. It is approved by Mr. Merrill.

Q. Voucher 8318, \$320.90, W. G. Cotten; what is that for? A. For contribution to camp ground at Northfield, on certain conditions.

Q. Voucher 8326, \$5000; what is that for? A. For patent ash pans for locomotives for use on the various roads.

Q. Should that amount be paid from the Trust fund? A. I can not say.

Q. Have you any knowledge of the contract by which that patent was used; are there any papers in the office in reference to it? A. I think probably there are in the superintendent's office.

Q. Voucher 8545, \$20, signed A. J. Brown; what is that for? A. Ticket from Waterbury to Chicago, for A. D. Hill. I don't know what that is. It says "per order of Gov. Smith."

Q. Who was A. D. Hill? A. I don't know.

Q. Who was A. J. Brown? A. Station agent at Waterbury.

Q. Voucher 8543, \$43.50; what is that for? A. Z. R. Howard, legal expenses.

[Court here adjourned till Tuesday morning, August 10th.]

TUESDAY MORNING, AUGUST 10TH, 1875.

Court assembled at 9 A. M.

Mr. Merrill re-called by Mr. DAVENPORT.

The following vouchers are the series of journal "F."

Q. I show you vouchers 791, '92 and '94, amounting to \$4000, cash paid Judge David A. Smalley; will you tell what you know about these vouchers? A. These two vouchers 791, '92 were before I come upon the road. This one, 794, is for services performed as master in chancery, which I presume refers to the settlement of the accounts of the road.

Q. Who paid these three bills? A. I presume I paid them; possibly I did not pay the amount to him direct. Mr. Brainerd's name is mentioned here, and they may have been paid through him in the first instance, and then I may have paid Mr. Brainerd. For a time after Mr. Barrett left the road Mr. Brainerd acted as treasurer for a time, and and quite likely they were paid at that time.

Q. Mr. Merrill, were these vouchers paid from the Trust funds?

A. They are entered to the credit of Mr. Brainerd, January, 1868.

Q. Then they were paid to Mr. Brainerd in 1868? A. Passed to his credit then.

Q. Who paid Mr. Brainerd the money represented by these vouchers? A. I judge the money was not paid him directly upon these vouchers; he may have received the money from the road some time previously, and paid these vouchers out of it, and they are credited up to him. The money he received was probably charged in account.

Q. When were these vouchers actually charged to the Trust? A. January, 1868. The money would be charged when he took it, and he may have made a charge to the Trust, but they were not entered on the Trust books.

Q. Then he may have had the money in 1858, ten years before, may he not? A. I don't know; the books will show when he took it.

Q. The money purports to have been paid him ten years before, does it not? A. Yes, it does by the date.

Q. Will you now, Mr. Merrill, read voucher 791? A. "Burlington, Jan. 27th, 1859. Received of Hon. Lawrence Brainerd \$3000 for expenses and money paid out at the Legislature, and preparatory thereto, for the Vermont & Canada Railroad, at the October Session of 1858. D. A. Smalley."

Q. Now read voucher 792. A. "Received of Hon. Lawrence Brainerd, Trustee, \$500 for portions of money expended in Legislative matters, on behalf of the Vermont & Canada Railroad, at the October Session of 1858. D. A. Smalley." At the bottom of this there is a pencil note in Mr. Brainerd's handwriting: "Paid, August 11th, 1859."

Q. Now read voucher 794? A. "Received of the Hon. Lawrence Brainerd \$500, on account of services, etc., as master in chancery, in Vermont & Canada, and Vermont Central Railroad and Trustees, August 12th, 1861. D. A. Smalley."

Q. Have you any knowledge, Mr. Merrill, of the purposes for which the \$3500—amount in the two first vouchers as read—was expended at the Legislature? A. I have not; it took place before I came upon the road.

Q. (By Mr. Dennison.) To which road do these vouchers show the amounts specified therein were charged. A. The two vouchers, 791 and 792, were charged to the Vermont and Canada Road; and the other, 794, charged to general expense account.

Q. Well, now look at voucher 793, for \$700, signed J. Gregory Smith, and say what it is for; you may read the voucher? A. "Received of S. L. Howe \$700 out of the funds belonging to the Trustees, in his hands as Station Agent, and this he will return to cashier at Northfield, as cash to be charged to him, and to be accounted for by him. J. Gregory Smith, Trustee, etc. Montpelier, Dec. 21, 1859. The above was for expenses incurred before the Legislature in obtaining an act relating to the branch at Burlington, and is to be charged to the Vermont & Canada Railroad. J. G. S."

Q. When was that voucher charged to the Trust? A. It was charged at the same time as the others, Jan., '68,—credited to Mr. Brainerd.

Q. Have you any knowledge of the transactions save what the voucher itself discloses? A. I have no personal knowledge.

Q. I now show you voucher 8896, for \$500, signed by Isaac F. Redfield, and ask you what it is for? A. It purports to be "for services in examining the case of West River, Vermont & W. N. H. R. R. charter and preparing written opinion, upon the points raised, after my return home, and retainer, &c., \$500;" approved and charged to W. N. H. R. R., Sept., '73—J. Gregory Smith.

Q. Did you pay the money specified in that voucher? A. I do not think so. It was paid after I ceased to act as Treasurer.

Q. Have you any knowledge of the transaction? A. I do not recollect that I have.

Q. Where was the West River R. R.? A. I understand it has been in the neighborhood of Brattleboro.

Q. From Jamaica to Brattleboro? A. Well, from Brattleboro to some point in that County; I don't know from what point.

Q. Had you any knowledge of a railroad to be started at the time of the date of this voucher in the vicinity of Brattleboro? A. I have a knowledge of a road being started near South Vermont, whether this road was being built under the charter granted for the R. road, I don't know; I do not remember that I had anything to do with it.

Q. You did not know whether this voucher has anything to do with that subject? A. I do not know sufficiently to be able to tell you.

Q. I now show you two vouchers, numbered 293, one for \$2,093 13, signed Joseph Clark and J. Gregg, and the other for \$2,093 13, signed Joseph Clark and J. Gregg. Will you tell me what these vouchers are for? A. One is for \$6,156 20, Canada currency; Mr. Williams can explain that better than I can. (Mr. Williams called.) The other voucher is for \$2,093 13, from the Montreal & Vermont Junction rent.

Q. What knowledge have you, Mr. Williams, with reference to Governor Smith's owning a tract of woodland in Canada? A. I have no knowledge.

Q. Whether Governor Smith was in the habit of supplying the railroad or rather the Trust with wood to any extent from Canada? A. I know he was in the habit of supplying them with wood. I speak now as to where it was from without reference to the vouchers. I would say that I understood that he had a wood lot in Canada, but I don't know.

Q. Where was it located? A. I don't know. I have a general recollection of it that he had a wood lot.

Q. I show you voucher 8,920, for \$2,509; tell us what it is for. A. 772 cords of mixed wood.

Q. Delivered by whom, and where? A. Delivered by Governor Smith, on line at St. Armand.

Q. I show you now voucher 8,922, and ask you what it is for. A. It is for pine logs, bass wood and ash, delivered by Governor Smith at St. Armand, I should say.

Q. Have you any knowledge where that timber came from? A. No, sir, I have not.

Q. I show you voucher 8,921, for \$634; what is that for? A. 158½ cords of cedar fencing posts, delivered by Governor Smith at St. Armand.

Q. I show you voucher 8,919, for \$19 50; what is that for? A. Three thousand brick for St. Albans, Aug. 31, '69 is the date.

Q. I show you voucher 8,923, for \$3,997 50; what is that for? A. 1,230 cords of mixed wood, delivered by Governor Smith at St. Armand.

Q. What is 8,769 for? A. 63½ cords of cedar fencing delivered on line at St. Armand, \$268 81, date, Jan., '70.

Q. (By Judge Poland). Will you state, Mr. Williams, where these wood accounts were made out? A. E. G. Babcock, w

Q. (By the same). Are they certified by him as correct? A. Yes, sir.

Q. Are they approved by Mr. Merrill, Superintendent? A. Yes, sir.

Q. Who appoints the wood agent? A. I suppose the Managers or the Superintendent. I don't know anything about it. Mr. Babcock had been here a long time before I came.

Q. Look at voucher 1069, for \$300, signed George G. Smith, and state what that is for? A. For salary as Clerk on Vermont Central R. R. one year.

Q. Look at Wilbur voucher 542, for \$3,000, and say what that is for? A. That is W. C. Smith's receipt for \$3,000 on account of Sullivan R. R.

Q. (By Judge Poland). Will you state to whom this amount was charged? A. To W. C. Smith.

Q. Is it not charged to the Sullivan R. R.? A. My impression is that the Sullivan R. R. was charged to the gross amount, W. C. Smith credited.

Q. I show you voucher 489, for \$547 08, signed by W. C. Smith, and ask you to read that voucher? A. "H. P. Wilbur, Treasurer Vermont Central R. R., please pay to the order of George Hoyle \$547 08, and charge to the account of W. C. Smith."

Q. Did you pay that voucher? A. I did not.

Q. Have you any knowledge of the transaction? A. Nothing, save what appears from the voucher.

Q. Do you know who this Hoyle was? A. I know of a man by the name of Hoyle. Mr. W. C. Smith had an account on the books and this is simply his draft to pay some personal matter of his from money that was to his credit on the book, just the same as a check on the bank. It was charged to him personally.

Q. You say that Mr. Smith had an account standing to his credit on the book, and this was a draft drawn against that account? A. Yes, sir.

Q. Will you now produce the book upon which that account stands? A. I don't know whether he had any credit or not; he had a personal account on the books.

Q. Will you produce the book and show to the Masters what the condition of that account was? A. This amount was paid out of the Sullivan Road money and charged to W. C. Smith's account on the Sullivan book, and it stands against a credit to him on that book.

Q. What is the credit to him on that book; what is its nature? A. I could not tell you. There is a credit of \$7,000.

Q. For a share in the rents or profits of the road? A. I presume so, sir; I don't know.

Q. I show you voucher 253, and ask you what that is and from what fund the amount was drawn? A. It was a check payable to the order of W. C. Smith and charged to the account of W. C. Smith on the Sullivan books.

Q. And paid from the profits of the Sullivan lease? A. Yes, sir.

Q. Voucher 744, \$1,000, signed William Leard, Treasurer; what is that for? A. It was a gratuity of an equipment loan bond to the Vt. Central Library.

Q. A donation to the Vt. Central Library? A. Yes, sir.

Q. Is that the Library that has been spoken of as being located in this St. Albans depot? A. Yes, sir; it is the Library of the employees of the road.

Q. I show you voucher 386, \$473 07, Jo D. Hatch; what is that for? A. Travelling and incidental expenses for the year ending Dec. 30th.

Q. Voucher 5,317, \$840 52, signed Jo D. Hatch; what is that for? A. Cash paid for travelling expenses, including a statement of claims for damages; procuring testimony; expenses for General Agency for the year ending Dec., '71, \$823 27; and four days attendance at Directors' meetings.

Q. Voucher 8,810, \$861, signed Jo D. Hatch; what items compose that voucher? A. Expenses in procuring charter of Western N. H. R. R., \$75 50; expenses for preparing for session of Legislature in 1870; expenses during session in resisting adverse legislation, and defeating general railroad law, application for Northern R. R. charter, Railroad Tax law, &c., &c., \$786 50.

Q. Voucher 2,135, \$125, signed J. R. Bowie; do you know or ever have seen any other voucher showing that J. D. Hatch has ever settled any other claim than that against the Trust? A. I have an impression that he did.

Q. How many others? A. I cannot say; I remember a claim of a Mr. Vilas.

Q. Well, is it true that if Mr. Hatch had settled any claim against the Trust that voucher for the amount paid by him would be found here upon the books? A. Vouchers for money paid Mr. Hatch would appear upon the books I presume.

Q. During your administration do you recollect of one other claim that he settled except this one of \$125? A. I do not remember any where he paid money.

Q. Do you recollect of one other that he settled? A. I could not tell; I should not know it if it was a claim for personal injury; he may have gone and adjusted it and agreed on the amount and reported it to some one else here, and in that case I should not know it.

Q. Mr. Williams, will you tell the Masters whether the claims for personal injuries against the Trust have been large or small? A. I hardly know how to answer that question.

Q. How much do you think the Trust has averaged to pay per year in the way of compensation for personal injuries? A. I have no sort of idea; my attention has never been called to the matter.

Q. Will the books show everything that has been paid on that account? A. Yes, sir, I presume they will. It goes into the General Expense account, I think.

Q. What do you say with reference to claims for lost baggage, are they large or small? A. I think we have a good many claims, but

whether they are large or small as compared with other roads I cannot say.

Q. I did not say as compared with other roads. A. Well, I cannot say with regard to this matter; my attention has never been called to it. I know there are quite a number of claims, and some quite heavy ones, but I cannot tell to what extent.

Q. (By Judge Poland.) Are there a great many claims constantly coming against the road for personal injury and lost baggage? A. Yes, sir.

Q. (By the same.) And it is necessary I suppose to have some one to look after them? A. Yes, sir.

Q. Is it necessary to have some one outside of the employees of the road to look after lost baggage? A. I don't know.

Q. Who would be most likely to ascertain whether a piece of baggage had been lost through the fault of the Railroad Co.—some one connected with the baggage and passenger department, or some one knowing nothing about these departments? A. I should judge the baggage master would probably know in regard to lost baggage better than anyone else. But in regard to the settlements, I think some one outside could settle it a great better than the baggage master.

Q. I hold in my hands a package of vouchers representing money paid to R. T. Bailey; in what shape does the money represented by these vouchers appear on the books? A. It is charged to account of R. T. Bailey.

Q. Who was R. T. Bailey? A. He was a civil engineer in the service of the road.

Q. Whether he was the engineer who had charge of the construction of the Missisquoi Valley R. R.? A. He was employed to some extent on that road; I think he was engineer.

Q. How does the account of Mr. Bailey now stand upon the books of the Trust? A. There is a balance due from him.

Q. Are you able to state how much that balance is? A. I don't know the exact figure; the balance is quite a large one. I think there are a great number of vouchers to be credited to him. My impression is that when these accounts are credited to Mr. Bailey, the amounts standing against him will be about three or four thousand dollars.

Q. Will you produce the book upon which that account stands, and read to the Masters how it shows the account at this time to stand? A. On reference to the book, I find that at the date July 1st, '73, the amount standing against him is \$17,511.29.

Q. Now you say it is your impression that there are vouchers, the amounts of which are to be deducted from that so as to reduce the account to some three or four thousand dollars? A. Yes, sir.

Q. What is the nature and character of those vouchers which accrue to him? A. I cannot state now, because part of them have been credited to him and part not.

Q. Are there any vouchers on file to your knowledge which ought to be applied to the reduction of these balances apparently due from Engineer Bailey? A. My impression is that there are.

Q. Can you, without too much trouble, produce them? A. I don't know whether I can get them.

Q. Can you tell why it is that these vouchers have never been credited to him? A. No, sir.

Q. Is it or not, true that the package of vouchers which I show you are largely for monies advanced to him on account of services as Engineer of the Missisquoi Road? A. I think it is. There are on the books some credits to him for pay roll on the Missisquoi Road.

Q. Have the amounts paid Mr. Bailey, as Engineer on that Road, been charged up to, and paid by the Missisquoi Road to the Trust? A. Yes, sir, so far as they appear on the books.

Q. Mr. Williams, what had this Trust to do to your knowledge with the survey of the Missisquoi Road? A. I don't know anything about it sir.

Q. Do you know how Mr. Bailey, Engineer, who was employed on the survey, and had charge of the construction of that Road, came to be on the Road for money to pay his expenses? A. Mr. Bailey was Engineer of the Co., that is the Trust—at the time the Missisquoi Road was built; my impression would be that he performed some work there and it was charged over to the Missisquoi Road. But whether it was the survey of the Road or afterwards, I don't know; he was the Engineer of the Trust.

Q. He was also Chief Engineer of the Missisquoi Road, was not? A. I cannot say positively as to that.

Q. This money seems to have been drawn during the year '71, do you think it not, mainly? A. Yes, sir.

Q. Whether that period when he was drawing this money was the period during which the Missisquoi Road was under construction? A. I think it was, sir.

Q. According to your recollection when was the Missisquoi Road begun, and when completed? A. I could not state.

Q. Can you tell me any reason why Engineer Bailey should have been drawing out money from this Trust to pay the Engineering Department of the Missisquoi Railway expenses? A. No further than as I have told you that Mr. Bailey and his party were in the employ of the Trust and they rendered their accounts for their services against the Missisquoi Road, and it was paid by the Trust, but charged over the Missisquoi Road.

Q. (By Judge Poland.) The amount of it, I suppose, is this, Mr. Williams,—the Trust let their Engineer go and do the engineering, and paid him for it? Yes, sir.

Q. I show you voucher 2148—\$25, and ask you what that is for? A. "Albert Andrews, Clerk of the Senate, for Senate and Assembly bills sent him during the last session of Legislature."

Q. What Legislature is that? A. I presume New York; it is copies of bills sent to Mr. Andrews at Malone, by the Clerk of the Senate.

Q. What is it charged to? A. General expenses account.

Q. General expense account of what Road—to the Ogdensburg Road? A. It is not charged to the Ogdensburg Road, but it may have been charged over to that Road. I cannot say.

Q. I show you voucher 967, in favor of the S., S. & C. Road, for \$77.89.74; what does that mean? A. It means that the S., S. & C. Road delivered to the Vermont Central Road 55641 ties, from April 9th, 1867, to May 31st, 1868, 14 cents, silver; certified correct by Mr. Hatch, roadmaster.

Q. Who was that paid to? A. My impression is that is credited to the S., S. & C. Road.

Q. Has it been paid in any other way than by passing it to the credit of the road? A. That is all that appears from this.

Q. What account was it debited to? A. Road repairs.

Q. On what road? A. The road of the Trust.

Q. You say it is your impression that that amount is credited to the S., S. & C. Road: was it part of the business of that road to get out ties, or did they buy the ties? A. I cannot tell you. The voucher is in Mr. Merrill's handwriting; I have no knowledge of it.

Mr. Merrill re-called.

A. These are for ties brought on to the Vermont Central from the S. S. & C. Road.

Q. Well, the question is how are they accounted for? A. I presume it is credited to the account of that road, and the Vermont Central charged for them by cross entry.

Q. Where did the ties come from, Mr. Merrill? A. Off the S., S. & C. Road. They were purchased by that road.

Q. Of whom? A. I don't know; individuals on the line of the road, I presume.

Q. Do you know whether Gov. Smith has got a wood or timber lot on the line of that road? A. I never heard that he had.

Q. Voucher 954, \$3762.50; what about that? A. That is for wood brought from that road. I should judge it is settled by a credit to that road and charged to the Central. It is certified by Mr. Babcock, wood agent, as correct.

Q. Is voucher 955, \$3333, of the same character? A. Yes. We purchased a great deal of wood and ties of that road, and a good deal of lumber.

Q. What do you say about these three vouchers representing money paid from the Trust to the S., S. & C. Road for wood and ties? A. I should judge them to be journal vouchers, that is cross entries.

Q. (By Judge Poland.) This Chambly Road runs through a country where there is a great deal of lumber of all sorts, wood, ties, etc., does it not? A. Yes, sir.

Q. How did this road get them here? A. They were drawn out on trains.

Q. For what road? A. For the M. & Vt. J. Railroad.

Q. Did this Trust pay anything for drawing them over the M. & Vt. J. Railroad? A. They had not at the time I left the road.

Q. As you understand it these bills are credited to that road in the account between the two roads? A. That is as I understand it. The S., S. & C. Road purchased these materials of individuals on the line of that road. They were bought in the name of the S., S. & C. Road and the Central Road took such of the material as they wanted and gave the S., S. & C. Road credit for what they took.

Q. Who did you understand paid for the material purchased by the S., S. & C. Road? A. I understood that that road paid for it.

Q. Out of what money? A. I presume out of money they had collected for freight, passengers, etc., then on hand. The S., S. & C. Road is credited on the books of the Trust with the value of the property brought here, and on the books of the S., S. & C. Road the Trust would be debited with the value of the material.

Q. (By Judge Poland.) I suppose the books will show a very large amount of wood, ties and lumber obtained on the line of the S., S. & C. Road, and brought here? A. They will, sir.

Q. And brought over the M. & Vt. J. Railroad? A. Yes, sir; ever since that road was opened, and a good deal before that; a good many ties came from that district.

Q. Has it come from that road without the Trust paying charges for any freight? A. Yes, sir. There has never been any charge for freight to my knowledge; such a charge never went into the accounts of the M. & Vt. J. Road.

Q. (By Mr. Safford.) And was never added to the earnings of that road? A. No, sir.

Q. How much did it amount to; was it not \$21,000? A. I don't remember.

Q. You testified about it before the Investigating Committee? A. Well, I have forgotten; I don't recollect the amount now.

Q. Mr. Merrill, this property was all transported on the cars of the Trust with the engines of the Trust and by the employes of the Trust, was it not? A. It was.

Q. And don't you know that this matter had been for some time pending between some of the parties representing the Bondholders and the owners of that road; the owners claiming that they should receive compensation for hauling this property over the road; and, on the other hand, the Bondholders claim that the Governor should account for the mileage charge at that time received from S., S. & C. Jct. to St. Johns? A. I understand that the Managers of the M. & Vt. J. Road, in cases where they received mileage through should receive pay for hauling this freight.

Q. The owners of the M. & Vt. J. Road have received from the Trust the mileage on the ties on the S., S. & C. Road at St. Johns, where the property has been transported over a portion of the road which belongs to the Trust, have they not? A. Yes, sir.

Q. And they have claimed to set forth that as against this claim for hauling the property over the remainder of their road? A. Yes, sir.

Q. That was the substance of your testimony before the Investigating Committee, was it not? A. Yes, sir.

Q. What did the Montreal & Vt. Junction R. R. go into the through line at—how many miles? A. I think it is 35 miles.

Examination by Mr. DAVENPORT continued.

Q. Mr. Merrill, how did you find this matter of the ties entered upon the books of the Trust? A. There is an entry of the bill of ties upon the Trust books that is entered to the road account of the S., S. & C. R. R., 55,641 ties, from April 9th, 1867, to May 31st, '68, 14c silver, \$7,789 74. Upon page 283 of Journal is entered "sundries to S., S. & C. Road," among them in the wood account a bill of wood, \$3,762 50, which corresponds with voucher 954, and the next item in the wood account of the S., S. & C. Road is \$3,333 for wood, which corresponds with voucher 955.

Q. Well, these are merely cross entries; they do not represent any cash paid out. A. Not upon the Trust books.

Q. When these ties and wood are purchased of the S., S. & C. Road, they represent cash received from that road, and they would be cash charged against the Trust on the S., S. & C. books for this material? A. Well, not cash, but the ties and wood or whatever the material is would be debited to the Central Road.

Q. Would not there not be some cash charged? A. No, sir, I don't think there would.

Q. You say in the first place that the S., S. & C. Road purchased them? A. Yes, sir.

Q. Well, who paid for them? A. The books show that the S., S. & C. Road paid for them.

Q. But who did pay for them in fact? A. I presume it was the S., S. & C. Road paid for them.

Q. Were not these ties paid for out of the funds belonging to this Trust? A. Probably there were.

Q. Probably! Is there any doubt about it? A. If this Trust owns the S., S. & C. Road, it was the money of the Trust that paid for the material, because in that case the money on hand on the S., S. & C. Road would belong to the Trust.

Q. I want to know if the Receivers and Managers did not pay for these ties out of the Trust funds? A. I presume they did.

Q. Is there any doubt but what they did? A. They did if the earnings of the S., S. & C. Road belong to the Trust, because the material would be paid for out of these earnings. These ties and the wood were purchased probably in small lots and of a large number of persons by the S., S. & C. Road; the vouchers of that road will show where all the wood and ties were purchased.

Mr. Safford—There are no vouchers here prior to 1871.

Q. I show you vouchers 1775-6-7; what are these Mr. Merrill? A. Bills of freight carried for Asa B. Foster on account of the S. E. C. Road.

Q. And charged to whom and how? A. Apparently to A. B. Foster; it appears so upon the bills.

Q. Apparently charged to A. B. Foster in account? A. Yes, sir.

Q. Voucher 292—freight from St. Johns to Farnham—what is that. State as briefly as you can what that voucher represents? A. It represents car services and terminal charges on business of the M. & Vt. J. Railroad.

Q. Who is it receipted by and when? A. Receipted Jan. 23d, 1869, by J. Gregory Smith and Joseph Clark.

Q. How much is the amount they received on that date? A. \$9,883.31, I understand it to be.

Q. Does not part of that sum appear in the statement of the earnings of the M. & Vt. J. R. R., 50 per cent. of which Clark and Smith had received? A. I am not sure how it is entered upon the books.

Q. Is not that sum received by them in addition to the amount for which the statement has been furnished? A. I don't know whether it is included in the statement or not. It seems to me that a portion is included and a portion not. The entire amount for car service as shown by this bill during the entire period is \$32,405.66; then there is a credit less the terminal charge which is included in the earnings of the M. & Vt. J. Road, which brings the amount to \$17,754.50. This sum of \$17,754.50—car service on freight of the M. & Vt. J. Road has been erroneously deducted from the earnings of that Road in the past four years in making up its accounts, and should have been included in its earnings. One-half of this sum or \$8,877.25 belongs to the M. & Vt. J. Road, and the balance to the Central Road, Gyles Merrill Gen. Supt.

(The foregoing certificate was read by Mr. Merrill.)

Q. (By Judge Poland.) Whether this appears in the accounts or not. Is it right as you fixed it? A. I thought it was right then.

Q. (By the same.) Do you think so now? A. I do.

Q. (By Mr. Safford.) You say that by the arrangement this was to be divided in a particular manner. By whom was that arrangement made? A. That arrangement was made by Mr. Brainerd and myself on one part and Governor Smith and Mr. Clark, I think.

Q. Was that arrangement written or verbal? A. It was a verbal agreement.

Q. And this matter of car service was talked of at the time the agreement was made? A. I understand it was.

Q. And the method of division of the earnings was talked over and arranged between you and Messrs. Brainerd, Clark and Smith? A. Well, not exactly.

Q. And this does not follow as a specific agreement between the two parties but is only a method of settling the Road's accounts? A. Yes, sir.

Q. (By Mr. Davenport.) The amount which the M. & Vt. J. paid to the V. I. & C., the National Car and other car companies and corporations outside of the Trust for the use of their cars constituted car service, did it not? A. The cars outside and inside constitute the entire car service. The arrangement for car service was made for the convenience of dividing the freight earnings with the lower Roads. The practice of the Central Road in making up its accounts was to deduct the entire car service through to the point where the freight was loaded, and in making out the accounts it had to be deducted here before the gross earnings

were entered upon the books at all, so that the gross earnings shown on the books of the M. & Vt. J. were less the amount of car service for this period covered by this \$17,000, of which the half is afterwards paid to Smith and Clark.

Q. (By Mr. Walker.) The M. & Vt. J. Road own no cars, and this was for services performed on the other roads? A. Yes, sir. The same cars may have gone through from Montreal to Boston; if the car belonged to any one else the Central Road would credit the party owning the car, and then charge the other roads in the line with the use of it. The Central assumed to furnish all the cars carrying its own business.

Q. (By the same.) Then whatever cars were used, whether Vermont Central, or other cars, the car services was deducted before the earnings of the M. & Vt. J. Road were taken out? A. The gross earnings of the road included the entire amount paid as I understand. Supposing an amount of \$10 was received for a car of freight, the whole of the amount should go in to make up the gross earnings of the road. Now if the car service was one dollar, if that were deducted, it would leave nine to be divided. Suppose the M & Vt. J. received \$5 for the bill of freight from St. Johns or St. Alexandre to St Armand, that I understand is part of the gross earnings of the road, and as I understand it the M. & Vt. J. are entitled to half that amount before the car service is deducted.

TUESDAY AFTERNOON, AUGUST 10TH. *

Court assembled at 2 P. M.

Q. I show you voucher 19? A. Mr. Drury, \$547.30 and J. M. Pinkerton, \$538.43. For services as committee of bondholders for 1871.

Q. Voucher 696, M. Hall Stanton, what is that for, and how much is it? A. \$588.20; as committee of bondholders for 1870, I should judge.

Q. Voucher 265 M. Hall Stanton, \$546; is that for the same as the other? A. Yes, sir, for 1871; committee of bondholders.

Q. I now show you vouchers 1071 and 1072, Pinkerton and Drury; what are they for? A. Mr. Drury's is for \$540.35, and Mr. Pinkerton's is \$540; each for services as committee of bondholders, 1870. Messrs. Pinkerton and Drury were committee of the first mortgage bondholders, Mr. M. H. Stanton for the second.

Q. Voucher 1788, Otis Drury; what is that for? A. Services as committee of bondholders, 1872.

Q. Voucher 1776, for \$564.64, J. M. Pinkerton; what is that for? A. Services as committee of bondholders, 1872.

Q. Do you know when the last election for committee was had? A. I think they are elected every year.

Q. What duties did the committee of the second mortgage bonds have to discharge for which they received this \$500 each per annum?

A. The same as the committee of the first mortgage bondholders.

Q. To examine the accounts? A. Yes, sir.

Q. Any other service that you know of? A. No, sir; not that I know of.

Q. Then it costs the Trust \$2000 per year for this committee of bondholders? A. No, sir; only \$15000; three at \$500 each.

Q. I show you voucher 1768, M. Hall Stapton, \$500? A. Salary as committee of bondholders, 1872.

Q. Did Mr. Stanton have anything to do with the examination of these books in 1872? A. I think so.

Q. I show you voucher 387 for \$157.47; what is that for? A. H. R. Beardsley, legal expenses.

Q. Voucher 6160, for \$1149.05, Noble & Smith; what is that for? A. Legal expenses.

Q. I show you voucher 3705, Noble & Smith, \$1849.63; what is that for? A. Legal expenses.

Q. I show you voucher 3704, \$1262.52, Dewey, Noble & Smith; what is that for? A. Legal expenses.

Voucher 3703, \$140.88 for the same firm? A. Legal expenses.

Q. Voucher 3849, \$750, Luke P. Poland; what is that for? A. Legal expenses.

Q. How much is for retainer, and how much for services before Railroad Committee? A. \$500 for retainer and \$250 for services before Railroad Committee.

Q. Were not the Trust in the habit of borrowing money of B. B. Smalley? A. They have borrowed of him. I don't recollect that they were in the habit of borrowing from him.

Q. At what rates of interest did they borrow? A. I don't recollect.

Q. I show you voucher 4653, signed B. B. Smalley—\$100, and ask you to read that voucher. A. "Trustees 1st Mortgage Bonds, etc., etc., to B. B. Smalley, Dr.: one per cent. on note \$10,000, payable one year after date note to bear eight per cent., payable semi-annually, in addition to this sum—\$100."

Q. He was paid the one per cent., and was to be allowed an additional interest of 8 per cent.? A. Yes, sir.

Q. Was that the rate of interest you were in the habit of paying other parties? A. I presume so; I could not say for certain. I don't recollect what it was at that time. Mr. Williams can tell you better than I can.

Q. Were you in the habit of paying over 7 or 8 per cent.? A. I don't recollect.

Q. What was the reason the Trust could not borrow money then at less than 8 or 9, while others could? A. I don't know. I presume 8 or 9 per cent. was the ruling interest at that time.

Q. I show you vouchers 5236-7 and 5436, G. F. Stone, for \$75, \$75 and \$50; what do those vouchers represent? A. This one, 5436, is cash on account of secret service, \$50. The other two vouchers represent amounts paid for detective services, \$75 each.

Q. Those are vouchers charged upon the books of the Trust, are they not? A. Yes, sir. Mr. Stone acted as a detective in looking after

freight stolen. He traveled about a good deal during the time he was employed, and succeeded in capturing some thieves and getting back some of the stolen property.

Q. I show you voucher 218, for \$2,150, B. F. Fifield; what is that voucher for? A. Legal services, salary and expenses.

Q. I show you voucher 702, for \$2,132, B. F. Fifield; what is that? A. Salary for legal services.

Q. Voucher 4818, I W. Rowell, \$50; what does that voucher represent? A. Retainer, \$50; it is receipted Dec. 14th, 1871. That is legal expenses.

Q. I show you voucher 2640, for \$50, dated Dec. 1871, L. ———, Barre; what does that purport to be? A. General retainer for services before the Legislature, if required.

Q. Voucher 4694, for \$1,606, George G. Hunt; what is that for? A. Services as attorney, charged to legal expenses.

Q. Voucher 1087, for \$1,206 52; what is that for? A. Legal expenses—Edson & Rand.

Q. Voucher 976, Benton & Cross, \$120; what is that for? A. Legal expenses.

Q. I show you voucher 4345, B. H. Smalley, \$400; what is the date of that receipt and what is it for? A. Professional services, dated Nov. 4th, 1871.

Q. What professional services did B. H. Smalley ever render to this Trust to your knowledge? A. Something as an attorney, I think. I cannot explain what specific service.

Q. Has Mr. Smalley been in the practice of law since 1860? A. I think not much.

Q. Do you know of any case that he appeared in Court for the Trustees and Managers? A. I don't recollect any. He might have been employed and I not know it.

Q. I show you voucher 4613, Jno. S. Eldridge, Jan. 5th, 1866; will you read that voucher and say what it is for? A. "Boston, Jan. 5th, 1866, pay to the order of Jno. S. Eldridge \$1500, and charge to account of Trustees and Managers. J. G. Smith, L. Millis. State st., Boston."

Q. How was that amount charged on the book? A. I think it was charged to him, or else suspense account.

Q. Well, what has become of that \$1500? A. I don't remember.

Q. Was it not first charged to Mr. Eldridge, and then, after laying on the books uncollected, charged finally to suspense account? A. I think it was.

Q. Can you tell us why it was so charged? A. I don't know, sir; except it was because we could not collect it of him.

Q. Well, during that time was he not collecting or receiving from Governor Smith rents—or receiving from the Trust rents of the Sullivan Road? A. I am not sure. I think the Northern Road had began to collect them at that time; I am not sure.

Q. Well, the Trust has paid out that Money to Mr. Eldridge on Governor Smith's order, and up to this time, as far as you know anything of it, they have never got any equivalent for the amount. A. I don't

know. We used some property of his for a time, which was afterwards destroyed by fire.

Q. Where was that property located? A. At Northfield, Vt.

Q. What kind of property was it? A. It was a building—I owned a whole factory—we used it as a saw mill.

Q. Is there anything on that voucher that shows the amount have been paid for the use of that property. A. No, sir. I wanted to get a voucher from him for the amount, and tried several times, but did not succeed. We could not get at him so as to get a voucher to settle the account.

Q. (By Judge Poland.) If this money was paid him to settle for the loss of his building by fire, of course the amount should not have been charged against him? A. I don't recollect distinctly if it was for that. I know he had a number of claims against us amounting to a considerable sum.

Q. I show you voucher 4696, Joseph H. Brainerd, \$393.47—what is that for? A. Purports to be an extra allowance for labor and fees in the suits of the Vermont & Canada against the Vermont Central Railroad. It is a note on demand and interest.

Q. Suppose you read the item? A. "The above note was given to Mr. Brainerd as extra allowance for labor and fees in matter of decrees and suits—Vermont & Canada vs. Vermont Central Railroad. J. Gregory Smith." Mr. Brainerd had made a claim against the Road as we were not prepared to settle it. I think I let him have this amount upon the order of Governor Smith, or Mr. Brainerd and took his note. I took his note in the first place because we were not prepared to settle the account.

Q. Voucher 633 for \$6,632.20—what is that for and what do you know about it, if anything? A. It purports to be for land purchased by the Vermont & Canada Road from the Missisquoi Railroad.

Q. Have you any knowledge of that transaction? A. I had at the time some knowledge, but I don't recollect now distinctly what it was. It is some land which was purchased by the Missisquoi Railroad and they sold some of it to the Vermont & Canada.

Q. What has the Vermont & Canada Railroad done with the land. A. I think they have done nothing with it. They thought they might want to make use of it for the storage of wood, etc. The amount was charged to the Vermont & Canada Railroad. I may not have stated the matter exactly as it is, but that is my recollection.

Q. I show you voucher 990, \$41,598 56, and ask you what that is for? A. "St. Albans, May 14th, 1872, Received of A. Forbes, Esq. chief clerk to Trustees and Managers Vt. Central and Vt. & Canada R.Rs., \$41,598 56, in full, for car service account to April, 1872. The above amount has been credited to the Vt. I. & C. Co. by F. J. Stranahan, Treasurer.

Q. About what amount was paid monthly to the Vt. I. & C. Co. for car service? A. I don't know, sir.

Q. Is there anything upon the books that will show—that is, in the books of the Trust? A. Yes, sir, I should think so.

Q. Will you refer to the books and ascertain? A. Yes, sir, I will.

Q. I show you voucher 1,451, Merchant's Despatch Transportation Co., \$35 10, and ask you to state the amount charged for car service per mile—that is the amount the Trust paid? A. 1½¢ per mile.

Q. That bill shows that the Trust paid to the M. D. Transportation Co. 1½¢ per mile for car service? A. Yes, sir; that was Feb., 1873.

Q. I show voucher 8,985, L. S. Lanned & Co., \$553 50, and ask you what that is for? A. Lithographic checks for paymaster, including stamps.

Q. Any part of these lithographs for the Sullivan Road? A. Yes, sir, 1,000.

Q. Do you know of any reason why the Sullivan Road should not pay its proportion of that expense? A. There is no reason that I know of. They ought to pay.

Q. Do you find anything upon the bill indicating that they did pay? A. No, sir. It came in through the paymaster's office and Mr. Hunt did not, perhaps, inform Mr. Hobart of the portion for the Sullivan Road.

Q. Here is another bill for engraving passes, 1872. How many passes does that show were engraved for that year? A. 3,000.

Q. What was the cause of the increase of 1000 on the previous? A. I don't recollect. This number included local passes over each division of the road, as well as for the whole line.

Q. Was there any distinction made in the issuing of your passes to cover the Sullivan Road and M. & Vt. J. Road? A. There were passes, some to cover each road, and some to cover the whole.

Q. I show you voucher 5935, for \$30, and ask you what that is? A. For two copies of a Railroad Gazetteer and Atlas.

Q. Mr. Merrill, can you tell when this Trust first began to borrow money? A. They borrowed money a good deal before I came on the road, more or less, I don't know when they began.

Q. Is it not true, Mr. Merrill, that they were not borrowers from the time that you came here to the extent of one dollar until 1866? A. No, sir.

Q. You say they borrowed money a good deal before you came on the road? A. Yes, sir.

Q. Is there any trace of that on the books? A. I suppose there is.

Q. Did you pay any interest during the years before 1866? A. You have already shown me some bills upon which I paid interest.

Q. Won't you look at the paper I now show you, marked 810, Lawrence Brainerd's interest account, and tell me if that is his interest account during the period that he was acting as financier of the Trust? A. Yes, sir, I judge it to be.

Q. Now, sir, which way is the balance of interest, for or against the Trust? A. For the Trust.

Q. How much is the balance of the interest in favor of the Trust that account as shown by Brainerd's statement? A. \$6522.69.

Q. What is the last date stated in that bill? A. Oct. 2d, 1863, I believe.

Q. What is the first date? A. Dec. 2d, 1859.

Q. Well, now, do you wish to be understood that between 1859 and 1862 this Trust was borrowing money? A. Yes to some extent. I may be mistaken but I don't think there was a time when they were not borrowing more or less.

Q. If there was any interest paid during that period it would appear upon the interest account of your ledger account, would it not? A. I presume so; it may possibly be charged in general expense account.

Q. Would you be likely to charge interest to general expense account when you had an interest account? A. I don't think the interest account was open; possibly it was not. The interest accounts upon the books were made mainly to answer questions with regard to the Railroad Commissioner, for a period interest paid was charged to general expense account, which included everything the Commissioner did not call for specifically; I believe he did not require a statement of interest paid, but I may be mistaken.

Q. Will you look at Ledger E, page 345, and tell me if that is not the interest account of the Trust from November 1861 to May 1865? A. It purports to be.

Q. Now do you desire to be understood as testifying that in addition to that there is an interest account in the general expense account? A. I said I was not sure; such was my impression.

Q. Well, that interest account shows that there was some interest paid, does it not? A. Yes, it does, but not very much. Perhaps I am mistaken, but it is my impression there was a considerable amount paid while I acted as Treasurer.

Q. Well now will you take occasion, for the purpose of making your answer certain, to examine the general expense account during the period covered by that Ledger and ascertain, if you can, if there is any interest charged in that account; you need not look now, take some other time? A. I will, sir.

Q. I show you voucher 2782. Andrew Fletcher for \$432—what did that accrue for? A. It purports to be expenses of Mr. Fletcher and Mr. Corby in making appraisals of the propellers of the Northern Transportation Company.

Q. I show you voucher 2657—\$150—what is that for? A. Personal services in attending Legislature in the matter of the Leased Roads in New York.

Q. That is for services rendered before the New York Legislature? A. Yes, sir.

Q. Voucher 2893 for \$2500; what is that for? A. "Received of the Managers of the O. & L. C. R. R., \$2500 on account of salary, as Manager. J. Gregory Smith."

Q. What knowledge have you with reference to Governor Smi being paid a salary for his services as Manager of the Vermont Cent Freight Line. A. That was a Line organized by the Board of M

agers, and Governor Smith, as a Manager of the Freight Line, got \$2500—I think that was the case; but, I am not sure.

Q. Who were the Board of Managers? A. Governor Smith, General Stark and Governor Stearns.

Q. As you understand the matter, this Board of Managers, whoever they were, got \$2500 for their services as Managers of this Freight Line? A. Yes, sir.

Q. I show you voucher 895—\$4,899 66—what is that for? A. It is an order of D.W. C. Brown, Superintendent, on the Treasurer of the O. & L. C. R. R., to pay C. & D. Whitney, Jr., & Co., rebates on lumber.

Q. Do you know anything about that transaction? A. I do not. It was made by Mr. Brown, Superintendent of the Ogdensburg Road.

Q. (By Judge Poland.) Do Whitney & Co. live at Malone? A. No, sir, Ogdensburg. They ship a great amount of lumber over the Ogdensburg Road and this was a rebatement on some of that lumber—so I judge it to be.

Q. (By the same.) Was that paid out of the Ogdensburg funds and charged to that road? A. I presume it is charged on the Ogdensburg books.

Q. I show you voucher 1,223, O. & L. C. Journal dated Feb. 26, 1870, \$12,500, and ask you what that is? A. "St. Albans, Vt., Feb. 26, 1870, sixty days after date we promise to pay to the order of W. C. Brown \$12,500, payable at our office in St. Albans. Trustees and Managers &c., &c., Samuel Williams, Treasurer.

Q. Have you any knowledge of that voucher? A. No, specifically.

Q. Voucher 1,224, for \$12,500; what is that for? A. "St. Albans, Vt., Feb. 26, 1870, ninety days after date we promise to pay to the order of W. C. Brown, \$12,500, value received, at our office at St. Albans, Vt. Trustees and Managers, &c., &c., Samuel Williams, Treasurer.

Q. Who was W. C. Brown? A. Judge Brown of Ogdensburg.

Q. Was he the attorney of the Ogdensburg & Lake Champlain R. R. at the time the lease of that road was taken by the Trust? A. He was I think.

Q. And did he continue to be attorney for the Trust afterward? A. Yes, sir.

Q. What date do those notes bear? A. Feb. 26, 1870.

Q. Will you look at the printed copy of the Ogdensburg lease and say how the date of those notes stand related to the date of the lease of the Ogdensburg & Lake Champlain R. R.? A. The lease is dated Feb. 24th, 1870, and the notes 26th Feb., 1870.

Q. Have you any knowledge yourself of what that \$25,000 was paid to Mr. Brown for? A. I do not know anything about it.

Q. Do you know of any equivalent the Trust ever received for that \$25,000? A. No, sir; I know nothing about it.

Q. Now I want to know if after the date of these notes and up to the time of his death Judge Brown was paid \$208 33 per month for his services as attorney of the O. & L. C. R. R.? A. I don't remember

that. Judge Brown did perform a good deal of service for th before the New York Legislature before that time, that is before notes were dated.

Q. Do you know whether Judge Brown received a salary the time of his death? A. I don't know when he died, but I think he was employed up to that time. It was within a few months of his death, I think, before he died, and I think it was taking effect.

Q. I now show you voucher 128, John Pratt, \$255; what for? A. "Received of the Managers of the O. & L. C. R. R., being one-half expenses of myself and William C. Brown at Albany reference to Legislative proceedings. JOHN C. PRATT. April 1870." That was for services before the Legislature.

Q. I now show you voucher 1225, H. L. Lamb—\$100, I want you to read that voucher. A. "St. Albans, June 15, 1870. Voucher for H. L. Lamb, Dr.: To serve as preparing brief, etc., concerning the contract with the O. & L. C. R. R. \$100. Received payment, HENRY L. LAMB."

Q. Is he the Albany lawyer that you have before testified to. A. Yes, sir.

Q. Was that brief upon the subject of the authority of the Legislature to make the agreement? A. I don't know, sir.

Q. I show you voucher 120, I. I. C. Abbott—\$550, and what that is for? A. An amount of £100 sterling, remitted to Wylde, Berger & Moore, in the matter of the bridge fight at St. Johns.

Q. Was that for the litigation growing out of the S., S. & C. Road? A. Yes, sir; it was about the bridge at St. Johns.

Q. Voucher 119, I. I. C. Abbott, for \$50 more; is that connected with the same subject? A. I should think so.

Q. I show you voucher 6300, Nov. 1, 1872, entitled "paid to Noble & Smith; what do you know about that packet? I cannot explain about that; perhaps Mr. Hunt or Mr. Williams can explain the matter.

Q. I now hand you voucher 6786, for \$417 83, paid to Noble & Smith; what was that bill for? A. Legal expenses.

Q. I show you S., S. & C. voucher 327, for \$24,746 48; what for? A. It is for rails carried by the M. & Vt. Junc. Road, S., S. & C. Road, from May until Nov., '71; the S., S. & C. not being able to perform, we did not lay any new iron upon it, but the new iron upon the M. & Vt. Junc., and this may be old rails from that road and sent to the S., S. & C. I think that is the case.

Q. Now, it is true, is it not, Mr. Merrill, that the M. & Vt. Junc. Road, which was owned by Clark & Smith, was kept in repair with new rails and the old rails taken up when they were slightly worn, and put upon some other road of the Trust and charged over? A. Yes, sir; in some cases only it was done, I think; and it was considered good policy, this, because the M. & Vt. Junc. having so much traffic, and fast trains running over it would require better rails than the S., S. & C., as the S. & C. Road would not have such fast trains running over it. I think the old rails sent to the S., S. & C. Road were mostly for the

ad on that line; sent there because we could not send them from the other roads in the States without paying line duty.

Q. Now, with reference to the M. & Vt. Junc. Road; how do you define and apply the term ordinary expenses? A. Expenses of keeping the road in proper condition, and running and operating it.

Q. Does it not cover the expenses of renewals of iron and ties? These have to be paid by the Trust, I presume. A. Yes, sir.

Q. In your system of book-keeping with reference to the other roads upon the Trust, what new iron and new ties you put in, you call renewals, do you not, and include them in the extraordinary expenses? A. No, sir; not unless the Road was made better. The ordinary expenses was for anything else connected with the Road. Rails were wearing out all the time, and must necessarily be included in the ordinary expenses.

Q. What would you call extraordinary expenses? A. Well, if a Road that had been running for years in bad condition was put into better condition, we should call that extraordinary expenses. Or, if a wooden bridge was taken down, and an iron one put up, it would be called extraordinary expenses. Sometimes taking down a depot and putting up a better one, would be called extraordinary expenses; but the ordinary renewal of rails wearing down in the service of the Road, could not properly be called extraordinary expenses.

Q. (By Mr. Dennison). Suppose a wooden bridge was taken down, and an iron one put in its place, would that be charged to the Road as ordinary expenses? A. No, sir; we should consider that as extraordinary expenses. With regard to voucher 327: The managers contemplated a light rail on that road, or laying a wooden rail, and then iron, but we finally decided to lay the old rails taken off the M & Vt. Junc. Road.

Q. (By Mr. Walker). Was that carried in as part of the gross receipts of the year, and on which the division was made with the M & Vt. Junction? A. No, sir; it was deducted from the expenses and credited to Road repairs. I suppose it should be added, because they were replaced by new rails, which, of course went into the gross expenses.

Q. (By the same). Please tell us the total amount of the extraordinary expenses of the M. & Vt. Junc. during the whole period on this exhibit, (handing statement,)? A. \$36,846.38.

Q. (By the same). And all other repairs were paid by the Trust? A. Yes, I think so.

Q. (By Mr. Davenport). How much was paid during the year '71, at the time of this account of \$24,746 for iron that was substituted? A. \$6,146.15.

Q. So you are satisfied that nothing was there included for substitution of new iron? A. No, sir; there is no reason there should be; it is not an extraordinary expense.

Q. (By Mr. Safford.) This twenty-four thousand dollars which represented the amount of old iron taken up from the M. & Vt. Junc. R. R., at amount was credited,—was it not to the M. & Vt. J. on the books? I presume it was, but I don't know how it stands on the books.

Q. This \$24,746.48 went in as a reduction of the expenses of operating the Road, did it not? A. Yes, sir; I presume it did.

Q. The M. & Vt. Junc. R. R. indebtedness to the Trust was decreased by just that amount, was it not? A. Their expenses for operating that Road would be decreased.

Q. Would not their final indebtedness to the Trust be decreased? A. I don't exactly understand your question. The expenses, as I understand, were reduced by the amount which was charged to the S. S. & C. R. R.

Q. When these Receivers turned over the accounts in 1873, they turned over the account against the M. & Vt. Junc. Road. Now would not this amount of \$24,746.48 go in reduction of the amount standing against the M. & Vt. Junc. R. R. A. I don't know, sir. The iron to put down on the M. & Vt. Junc. Road was bought by the Vt. Central R. R. in England, and came shipped to Montreal, I think, and some to Boston. What was needed on the M. & Vt. Junc. R. R. was laid on that Road and charged to it by the Central. I think the order was made in the name of the Central.

Q. Then, as I understand it, the M. & Vt. Junc. R. R. furnished the old rails and charged them to the S. S. & C. Road? A. I presume the new rails furnished to the M. & Vt. Junc. Road by the Central were charged to road repair account, and the old rail credited to that account.

Q. (By Judge Poland.) Did the laying down of these new rails and taking up the old—did that operation effect the question of earnings of that Road at all? A. Not at all, sir.

Examination by Mr. DAVENPORT, continued

Q. I call your attention to voucher 3452, in favor of Gates and Curtis, of Ogdensburg, dated July 31st, 1871, for \$2337.19, and ask you if that is not a bill of castings of the same character as those furnished by the St. Albans Foundry Company to the Trust? A. I think the castings from Ogdensburg are of a different kind. I think they would not include any locomotive castings. I think they were railroad castings such as chairs, etc.

Q. Did not the St. Albans Car Company furnish you with large quantities of road and car castings? A. Yes, sir, and also other castings.

Q. Now I want to know what was the price charged during the time covered by that bill, for such castings as were furnished at Ogdensburg? A. 4 cents and $4\frac{1}{2}$ cents per lb.

Q. Now what kind of castings are charged for at 4 cents per lb? A. The cheapest class, I should judge from the items here.

Q. Are they railroad or other castings? A. Some of each, I should think. Where the castings are heavy, plain ones, it would perhaps take a poorer quality of iron.

Q. I show you voucher 662 for \$5820, 194 tons old railroad iron furnished by the M. & Vt. J. Railroad to the S. S. & C. Railroad; does that belong to the same class as that you have just testified about? A. I think so; I am not sure whether it was used for the same purpose or not.

Q. I show you voucher 4777, for 1255.80, bill of car castings furnished by W. B. Allen & Co. in the month of February, 1872, and ask you to state what is the price charged by the Foundry at Ogdensburg? A. 4 cents per lb.

Q. I show you bill for March, 1872, amount \$1.235 03, and ask you what prices were charged for castings that month? A. 4 cents, I should judge, all along.

Q. I now show you voucher 1196, Dec. 1871, bill of car wheels furnished by the Rutland foundry and machine shop, and ask you to state what prices were charged during that period for car wheels? A. \$21 for some, and \$20 for others.

Q. What kind were charged at \$20. A. 30 inch I think.

Q. Are not tender wheels and truck wheels charged at \$20? A. Yes, sir. I presume they were 28 or 30 inch wheels.

Q. I now show you a bill for August, 1871, and ask you to state the price for car wheels for that month? A. \$21 for car wheels and \$20 for tender and truck wheels.

Q. What price is there shown to have been charged in July, 1871? A. \$20 for truck wheels and \$21 car wheels.

Q. Another bill for March, 1871, what is the price shown there? A. The same prices.

Q. Another one for April, how do the prices show for that month? A. The same prices—\$21 and \$20.

Q. I show you now voucher 244, Sullivan R. R., March, 1866, bill of the Sullivan R. R. to the Northern R. R. and ask you what that means and how it happens to appear here? A. I don't know; it seems to be repairs upon cars.

Q. Is that a bill which the Trust ought to pay? A. I don't know; I do not understand the bill, perhaps Mr. Camp can explain it: he charges all these bills in the first instance to "shop stock," and afterwards they are all transferred to the proper account to which they belong. I think that should be undoubtedly charged to the Sullivan Road.

Q. And you think Mr. Camp can explain it? A. Yes, sir, he can explain. It may have been a car broken down upon the Sullivan Road.

Q. I show you voucher 2,184, for \$615.34, from John B. Fletcher, and ask you what that is for? A. It is for right to use the Benton box cover, of which he held the patent.

Q. That seems to be an account of which the O & L. C. R. R. should pay a proportion? A. Yes, sir.

Q. Did the Sullivan R. R. get the benefit of that patent? A. No, sir, they did not own any cars to use the box covers.

[Voucher 4,402 was left for Mr. Millis to explain.]

Mr. Jo D. Hatch called and sworn; examined by Mr. DAVENPORT.

Q. Mr. Hatch, when did your service in connection with the Vermont Central and Vermont & Canada Receivership commence? A. I suppose in 1857—I think that was the year.

Q. In what capacity were you then employed? A. I was employed as a General Agent.

Q. Your first employment was that of a General Agent? A. Yes, sir, it was, under the Managers and Trustees, before that I was Station Agent at Windsor connected with the Road more or less.

Q. When did you remove to Burlington? A. In 1861, I think.

Q. After you went to Burlington what was the nature and character of the business you performed for the Receivership? A. Of the same character as when I was at Windsor.

Q. A General Agent? Yes, sir, we called it that.

Q. Did you have an office at Burlington? A. No, sir. I had no office except at my house.

Q. Have you ever had any office? A. I am now keeping a part of the Vermont Life Insurance office—I am connected with that Company.

Q. And your office as Agent of the Receivership is in the office of the Life Insurance Company? A. No, sir; I am there when I am not in the employ of the Company.

Q. What was your salary in 1861? A. I am unable at this moment to say; my salary commenced at \$1000, and was afterwards increased to \$1500—then \$2000. It has been since reduced to \$1800.

Q. When was your salary to \$2000? A. I don't know that I could tell you.

Q. When was it reduced to \$1800? A. At the time they reduced the salaries of most of the officers. I think the first of last December.

Q. Then up to the 1st of last December, for a number of years, you have had \$2000 per year? A. Yes, sir.

Q. Is that inclusive or exclusive of expenses? A. Inclusive.

Q. All your expenses have been paid beside your salary? A. Yes, sir.

Q. Now you say your business has been that of a General Agent, what business have you performed as General Agent? A. I have performed all the duties I have been called upon to do by the Managers.

Q. What business or duties have you been called upon to do for the Managers? A. I have been called upon to settle some cases; look up testimony in relation to personal injuries.

Q. Will you tell me what cases of personal injury you have ever settled? A. I settled one case of injury that happened at Essex Junction to Mr. Vilas, President of the Bank at Plattsburg—he was injured by a collision.

Q. Did you pay him? A. I did.

Q. How much? A. I think \$1000.

Q. Take his receipt for it? A. Yes, sir.

Q. And that receipt was forwarded here to this office? A. I believe it was.

Q. That is one case; now what others are there? A. There was a Mr. Beers, a Dentist of Montreal, who was injured at the same time I was at Essex Junction at the time of the accident. I tried to get him to stay over there a time and if he was hurt I would adjust matters

him. He concluded to go on that night, and went to New York—said he was not much injured. Mr. Merrill afterwards received a letter from him stating that he was injured and should hold the Company liable for damage—would probably lose his hearing or something of that sort. I went to Montreal and saw him and settled the matter with him, at \$50, I think.

Q. And took his voucher for it? A. Yes, sir.

Q. That is two cases of personal damage; what others do you recollect, Mr. Hatch? A. There was a commercial runner for some Montreal House was injured at the same time, I think. I endeavored to have him stop at Burlington until next morning. I settled with him. He claimed some seven or eight hundred dollars, but by attending to him pretty closely I fixed it at \$125.

Q. And did you take his voucher? A. I think I did, sir.

Q. It is not on file. Now there are three cases, all growing out of an accident at which you happened to be present; what other case do you remember? A. There was a Mr. McIndoe, of Windsor, son of the editor of the Vermont Journal. He had his leg broken at White River Junction. I was notified of it, and went down there to see him. I went and saw Dr. Phillips and asked him what he thought I should pay as a fair compensation; he thought \$2500, and considered we should be fortunate to get off at that. I eventually settled with him for five or six hundred dollars.

Q. Well, that makes four injuries you settled for. Do you know the year when Mr. McIndoe's accident happened? A. I don't recollect the year, some three years since, I think. The receipt will show the date.

Q. When did the accident at Essex Junction occur? A. I don't recollect.

Q. Before or after the accident to Mr. McIndoe? A. I don't recollect, sir.

Q. Does this help you to fix the date? (handing him a document.)

A. That appears to be May 11th, 1871.

Q. Then it was May 11th, 1871, the accident at Essex Junction happened? A. No, sir; it was before that; I think the winter before that.

Q. You have named four cases where you have settled claims for injuries; do you remember any others? A. I don't recollect now; there were several more; the vouchers will show them. I cannot remember any others at this moment, sir.

Q. Any claims for lost baggage that you ever settled and if so with whom? A. I don't know, sir, that I ever settled for any lost baggage. I cannot recall any just now.

Q. Can you recall any cases of lost freight claims that you have settled? A. Yes, sir.

Q. Whose claims and what? A. I recollect a Mr. Field, of Springfield. He had a claim which I investigated, and settled, and took receipt.

Q. When was that? A. Within the past two or three years.

Q. Any other cases? A. I think I settled one with Mr. Harris, at Lyndon; but I don't recollect the particulars.

Q. Did you take his receipt? A. I am not positive that I paid Mr. Harris.

Q. Where were you when his claim was made? A. I cannot say, sir; I think I was written to by attorney of his. I saw Mr. Harris afterward, and said his claim should be settled, and I think I paid him, but I am not sure.

Q. Well, if you adjusted that there were two claims; can you recall any others? A. I cannot recollect any others that I settled just now. I examined into several.

Q. Can you state any such? A. Yes, sir. One at Burlington, a Mr. Parson, a merchant there, made a claim. I looked the matter up, concluded the company were not liable; the case was heard and he was beaten.

Q. Any other case? A. I don't remember any, just know.

Q. Were you called upon to do anything that a station agent could not just as well do? A. Well, I presume any one could do it, for that matter.

Q. These claims for lost freight or damage to freight, etc., which you have settled—has there been anything intricate about them—not in the ordinary course of business? A. No, sir; I don't know that there was. I don't wish to be understood that those are all the cases I have attended to.

Q. Well, I asked you to state all you could think of? A. There was a man killed at the Lime Kilns in Colchester. I took the case in hand and supposed it was settled—fixed up—but a young lawyer brought a suit against the Company. The case was turned over to me; I looked the matter up, and employed Mr. Noyes, with whom the man lived, and a Mr. Taft, and after a while the matter was settled. I don't know how much was paid, for I don't think I paid the money.

Q. Any other case? A. Mr. French, of Montpelier, was put off the cars on a through ticket—I think at Woodstock. There was a hue and cry made about it, he threatened the Company, it was placed in my hands to see what could be done. I talked the matter over with him several times and finally settled it by giving him a pass for a year for himself and wife. He at first claimed several thousand dollars.

Q. Was that a service that you could perform any better than Mr. Fifield? A. Well, I suppose they thought I should not get mad as quick as Mr. Fifield. Mr. French was very savage about the matter.

Q. What other case have you in mind, Mr. Hatch? A. There was a lady at West Rutland—a Mrs. Morgan, I think—who was injured somewhere, I don't know where. The matter was placed in my hands. I went to see her two or three times, and that matter was adjusted.

Q. Go on; any more? A. There was a Mr. Ray, of Lancaster, who was injured at Mount Holly; the matter was turned over to me and I settled with him for I think \$200.

Q. Is the voucher of that case on file? A. I believe it is, sir.

Q. What else? A. There are a great many others, but I cannot re-call them, now. There was the case of a cashier of a bank at Claren-

don; he had the same trouble that French had with a limited ticket; he was put off the cars. I don't recollect where he was put off, I only remember attending him. I went to see him two or three times—once, I think, with Governor Smith, and it was finally settled—but I don't remember how. I looked up the matter and made a report of it. Then there was an accident happened by which a horse was killed. I think I had something to do with that; I reported the facts of the case, went and saw Mr. Burdett, and that was settled. There was an accident to a man at Charlotte—fell through a hole in the platform. I thought he made a very large claim—several hundred dollars; I investigated the matter, got some gentlemen with whom I was acquainted to see him, saw his physician, made a report about the case, and it was adjusted.

Q. Where will your reports be found? A. They were verbal reports.

Q. Did you ever make a written report? A. I think I have; I don't know.

Q. Any more cases that you remember? A. Not just now; I cannot re-call any more at present.

Q. Now what other services have you performed for these Receivers? A. I have performed all the services they have ever asked me to do that have been proper to be done.

Q. Well, have they ever asked you to do anything improper? A. No, sir.

Q. Well, what proper services to be done have they asked you to do? A. Well, I cannot tell; it is a question I cannot answer just now. I have been doing for them for twenty years.

Q. What kind of services? A. Anything that they wished done, that they thought I could do better than anybody else; they would send me to negotiate and talk up matters with any party.

Q. What matters? A. Well, any matters.

Q. Moral, political, religious; any of those matters? A. Well, I don't know.

Q. Legislative? A. I have attended the Legislature for them several years.

Q. In what capacity have you attended the Legislature? A. I have been there to look after matters that came up before the Legislature—examine the bills as far as I could; found out what was going on that affected the interest of the road, and reported to the attorney they always had.

Q. You have been a member of the "third house," is that it? A. Well, I suppose so.

Q. Engaged in what is commonly known as "lobbying?" A. No, sir.

Q. You have not done anything of that? A. No, sir; I have tended to no other interest but this.

Q. Have you been looking after, as a lobby member, the interest the Receivers and Managers of this Trust as you understand those interests to be? A. I have been there as their agent to look after their

interest and report to them the condition of affairs, consult with their Att'y, &c., and attend to any matters that came up which involved their interests.

Q. Who did you report to? A. For a long while Mr. Tracy was attorney there, and was there during the whole session—he roomed with me several years.

Q. You were accustomed to report to him? A. I talked with him over matters and then there was Mr. Fifield after he came in as attorney; and Mr. Peck while he was attorney.

Q. I show you, Mr. Hatch, voucher 8,810, for \$861, and ask you whether the services you have detailed on that voucher as having performed during the session of 1870 are like the services which you performed at other sessions of the Legislature? A. Well, that is not like them all because this is for expense in procuring charter of the Western N. H. R. R. They got me to attend to that matter, I did so. I went to Concord, attended at Brattleboro and organized a Company there. We had Mr. Harris, Gov. Washburn and Mr. Waite—I think they were there. I put in this voucher for expenses.

Q. Now, Mr. Hatch, you know as much of that matter as anybody; will you tell me where this W. N. H. R. R. ran from, and to what point? A. I will tell you all I recollect about it. I think there was a charter obtained, running to some point on the Ashlot R. R. to some point in the town of Walpole, connected with the Cheshire Road; I think it was organized under that charter. I know the people here were anxious to have the charter obtained, and I went to see Mr. Redwood.

Q. What was the purpose of that charter and the organization under it? A. I suppose it arose from some trouble they had in relation to the Valley Road.

Q. Was the purpose of that charter to build a competing line on the east side of the river between the points you have named—that is, a competing line with the Valley Road? A. I cannot tell you, sir; I don't know enough about the position of the roads. I suppose Mr. Harris was very much interested in it and I suppose it was to get the line through from him, north. If he could get over the Cheshire Road up to Bellows Falls, he could make arrangements with the Central Road to leave the Valley Road out.

Q. Do you understand the purpose was for the Vt. Central Receivers, the Cheshire Road, and the Conn. River R. R., to build this Western N. H. Road? A. Well, sir, I don't recollect. I think they were all interested in it.

Q. Do you know whether they undertook to build that Road? A. I think it was commenced and surveyed.

Q. Well, now, that is what the first item of that bill accrued for—services at Concord, N. H.? A. Yes, sir.

Q. Now, I ask you if the services named in the second item of your bill are of the same character as those which you rendered at other sessions of the Legislature? A. I cannot state that exactly—I should think they were of that character, sir. I understood that our people were opposed to a General Railroad Law.

Q. What were the particular things which you resisted and defeated at the session of 1870, as stated in your bill? A. It does not say I defeated any, sir.

Q. Yes, it does. A. Well, it does not mean that I defeated the law.

Q. The General Railroad Law was defeated that session, was it not? A. Yes, sir.

Q. The application of the Northern R. R. for charter was defeated was it not? A. I think so, sir.

Q. The bill taxing railroads was also defeated, was it not? A. I don't recollect, sir.

Q. Does not this bill of yours show that it was defeated? A. Yes, sir, I presume it was.

Q. Now please tell the Masters what services you rendered in the way of defeating the General Railroad bill, for which you have charged \$786 50? A. Well, I cannot tell any special thing that I did in relation to it at all.

Q. Well, how did you go to work about these things—what did you do? A. Well, I did everything that was fair to defeat them.

Q. Well, what were the usual means and methods you adopted? A. I cannot state what they were now. If people were misinformed in relation to these matters I talked to them and convinced them of their error, &c.

Q. Did you do the usual things that are done by lobbyists? A. I don't know what those duties are, sir.

Q. What did you do that session, Mr. Hatch, to defeat the bill taxing railroads? A. They all came under the general way, sir. I did all I could to defeat them.

Q. And succeeded? A. Yes, sir.

Q. Did you employ lawyers? A. I cannot say whether I did or not.

Q. Did you make a judicious distribution of free passes? A. I presume I did; if I distributed them they were judiciously done.

Q. Did you have free passes to distribute in your possession? A. I occasionally had free trip passes to distribute where I thought it was advisable.

Q. Have you not been in the habit of informing Gov. Smith what gentlemen would be most likely to be favorably influenced by a free pass? A. No, sir, I have not.

Q. Have you not been in the habit of recommending different persons as proper subjects for the receipt of a free pass? A. I think talked matters over with him when they made out their free list.

Q. And gave him advice about it? A. Well, I don't know whether I did or not; very likely I have.

Q. Do you think you have always been present when the list of free passes were made out? A. I think not.

Q. For how many years do you think you have been present? A. Cannot tell you, sir; perhaps ten years more or less.

Q. Have you been in the habit of paying retainers to lawyers? A. Yes, sir.

Q. To a large or small extent? A. Well, sir, I don't know whether you would call it a large or small extent; all that has been paid by me will be shown by the vouchers.

Q. Have you returned vouchers? A. I think I have, sir.

Q. How could you expend all that money without employing lawyers—your own personal expenses would be a small part of that bill, I presume? A. My expenses may have been half of it. There may be included there expenses for a whole year; I cannot say.

Q. Is there not a bill of \$473, for other expenses that same year? A. Yes, sir.

Q. Now you do not want to be understood that any part of this first bill was for expenses. You said it might cover your expenses for a whole year? A. I said it might be for a part of the year.

Q. Is not that a bill of expenses for part of the year? (handing him a voucher.) Yes, sir.

Q. Then all of this bill (voucher 8810) is for services at Montpelier and Concord and expenses? A. I should not wish to say it was, sir. I don't recollect.

Q. Do you wish to say that it is not in view of the voucher you hold in your hand? A. No, sir. In relation to that bill—it was probably made out here in this office, it may be that I made out that bill for expenses and they approved it. I have no means of telling any of the special things in it.

Q. I have called your attention to the session for 1870 only—the voucher for 1869 session seems to have been lost.

Q. Do you know, Mr. Hatch, whether the paper marked "Exhibit A," on page 1 of appendix Investigation Committee Report is a copy of the Hatch voucher for the legislative expenses for 1869? A. Yes, sir, it is.

Q. Do you know where that original voucher is? A. I do not.

Q. Have you ever seen it since the Legislative Committee Session? A. No, sir.

Q. That states that your services in 1869 were resisting adverse legislation and in preparation for opposing the application for a parallel line from Burlington to Canada—these were the principal matters you had to do that session? A. Yes, sir, they were.

Q. And the statement in detail on the same page as the voucher is a statement of the purposes for which you paid out \$1000? A. My explanation of that matter appears in the Report of the Investigation Committee and I want it to stand as it is there.

[It was agreed that Mr. Hatch's evidence upon the voucher and statement should be put in as it appears at page 36 and 189 of the above named report.]

Q. Mr. Hatch, what legal services did H. H. Powers ever perform for the Receivers and Managers to your knowledge? A. That question is already answered in the book.

Q. Mr. Hatch, you have given a receipt and detailed statement there for \$1000 of the money which was received from the secret service fund of that year, 1869. There is another receipt showing that you received on the 5th day of Jan., 1870, \$350 to account for; what did you

do with that money? A. I cannot tell you. I think I must have expended it, and returned a voucher for it. I know I left a voucher for it when I took the money. I have not got the money now, I spent it for something but I cannot tell for what.

Q. Have you any recollection of ever having received that \$1,500? See page 25 Appendix of the Investigating Committee's Report.] A. No, sir, I have not, and yet I suppose I did receive it.

Q. What disposition do you suppose you made of it? A. I don't know. I stated all I knew about it at the other examination.

Q. All that you then stated was that you know nothing about it. A. Well I don't remember any more about it now. I returned a voucher for the money.

Q. Who did you receive the \$1,000 from, specified in the "Hatch Voucher?" A. I probably received it from Mr. Williams or Mr. Putnam.

Q. Do you know who you got the \$350 from? A. I do not remember now.

Q. Did you know at the time it was taken from the Secret Service Fund? A. I did not.

Q. Did you know at the time that there was any such fund in existence? A. I did not know there was a separate fund at that time.

Q. Did you know there was such a fund as the Secret Service Fund? A. No, sir, I think not.

Q. Can you tell when you first knew of the Secret Service Fund? A. No, sir, I do not remember when I first found out that there was such a fund as that.

Q. Did you not know it on the 5th of January, 1870? A. I should think not, sir.

Q. Will you look at the receipt you signed on that day? A. I signed a receipt for \$350.

Q. It purports to be from the Secret Service Fund, does it not? A. Well, it says "S. S. F." I don't know what that stands for, whether Special or Secret Service Fund. I wanted the money for some purpose, and the person who delivered it to me wrote the receipt and I signed it. I have tried to recollect about that matter but cannot.

Q. Since you have been on the witness stand have you recalled any other services that you have performed for the Trust? A. I have not.

Q. How much of your time has been occupied in business for the Trust other than while you were engaged at Montpelier? A. Well, sir, that is hard to tell; I have performed all the duties they have required of me.

Q. One day in a month? A. Well, sometimes half the time or three-quarters. There is not hardly a day or two or three days pass but what I am not up here on business of the Road.

Q. Is not the busiest time of the year with you during the session of the Legislature, and while the Conventions and Caucuses are being held? A. Yes, sir, I suppose so.

Q. You have been active in the employ of the Trust at that time, have you not? A. No, sir.

Q. Have you not taken care to put under a retainer the lawyers who were candidates for legislative office, or executive offices? A. Well, sir, it seems that a good many of them had these offices, but I never have retained a lawyer without the approbation and advice of the Trustees.

Q. Well, those gentlemen whom you retained, did you retain them for their personal and political influence or to secure their professional services? A. The main thing was for their professional services. This road has always been in trouble more or less and I suppose the Trustees have taken the best means in their power to fortify themselves against attacks. I suppose that was one of the reasons why I was instructed to engage retainers.

Q. Can you testify, Mr. Hatch, that you have not, when you have distributed your retainers, had in view the possible or probable election of the recipients of these retainers to seats in the Legislature? A. If I have to make a straight answer to that question I should say no, still I cannot say but what I may at some time thought that very probable.

Q. What do you mean by "if I have to give a straight answer to that question?" A. I mean that I should say, no.

Q. (By Judge Poland). Let me ask one question about the money. Here are certain receipts or charges of money to you which do not appear to have been paid you for salary or expenses. Have you ever received any money from these Trustees and Managers other than what you received for your salary and expenses, or what you disbursed for them? A. No, sir. I will explain that matter. For instance, suppose Judge Poland had a claim against the road for damage or injury, and suppose I settled the matter with him and arranged to give him \$500 compensation. If I had that amount with me I would pay it and take his receipt. When I came here I would draw the money and hand in that receipt for it. If I had to come here first, before settling the claim, I should take \$500 and give my receipt to account for it. Now, when I paid Judge Poland that money and got his receipt I should take up my receipt which I gave for the \$500, when I received it, and put his receipt in place of it. That is the way I have done it, so that there would be no book transaction about it in the first place.

Q. (By the same.) Have you ever received any of their money except what you have received for services and expenses, and what you have expended for them? A. No, sir; I never have.

Cross-examined by Mr. UNDER WOOD.

Q. Do you remember a Mr. Roods being injured at Jonesville by jumping off the train? A. Yes, sir, I think looked up that case, but I cannot state the particulars of it.

Q. Do you recollect a quantity of hay being burned at Jonesville? A. Yes, sir; I think I investigated that case, and looked up testimony.

Q. Do you remember the case of a Mr. Morse where there was a way bill charged and a car load of sheep that was consigned to Manchester, N. H., had disappeared? A. Yes, sir.

Q. Did you look up testimony in that case? A. I think I did, sir.

Q. Do you remember two cases of accidents at Richmond, one of sheep and one cattle, where the train passed through them? A. Yes, sir; I looked that case up.

Q. There was a case of some cattle killed at Milton, at a crossing, and the question was who let the bars down and let the cattle on the track? A. I don't remember that, sir.

Q. Do you remember the case of Mr. Brown at Milton, where some cattle was killed? A. No, sir; I cannot recall that just now.

Q. Do you remember a Mr. Blumerthall, who had some goods consigned to Lazarus Cohen, and the goods were stolen—did you not look up that case? A. Yes, sir; you requested me to investigate that matter.

Q. Do you remember the Machine Shop and Brass Foundry, etc., at Northfield, being robbed of tools, etc.? A. Yes, sir, I recollect there were a series of robberies there, but I don't remember the details.

Q. Did you not spend some time there? A. Well, I don't want to swear to what I don't recollect distinctly.

Q. Do you remember some suits against parties at Waterbury and Northfield connected with those robberies, where the parties were committed to jail at Montpelier? A. I had something to do with them but I cannot recall what it was.

Q. There was an accident resulting from the Bridge disaster at Northfield and there were three suits brought; do you recollect that? A. Yes, sir, I was detailed to settle and arrange the matter with Mr. Fisk. I got a very great reduction from what we should probably have had to pay had the suits gone on. I did not settle the cases personally, but they were settled.

Q. Do you remember a lot of calves that were smothered on the Road and the question was whether the men who owned the car did not load them properly in a box car? A. I don't recollect that, sir.

Q. Do remember a Mr. Le'hommedieu bringing a claim for baggage lost at Swanton or Alburgh by himself taking it into the depot and leaving it? A. No, sir.

Q. There was a case of a Mr. Morse for some cattle killed at Swanton; do you remember that? A. No, sir.

Q. Do you recollect the claims of Henry N. Callen for lands at Burlington adjoining the depots at that place? A. Yes, sir, I looked up evidence in that place.

Q. While I was counsel from 1857 to 1867, state whether I attended to most of these suits and whether you were generally called on to go and see into the facts of the cases. A. I was called upon by you a great many times, sir.

Q. Do you know whether I was instructed by the Receivers, when I wanted to ascertain the particulars of any case, to call upon you to investigate it? A. Yes, sir; whenever you required me to look up any case I considered it my duty to do so. I should take an order from you as soon as from the Trustees.

Mr. Merrill re-called by Mr. DAVENPORT.

Q. Mr. Merrill, I ask you now what is the result of your examination as to the amount of interest that was paid previous to the 1st of June, 1865? A. I did not find any charged in general expenses account. I have examined every voucher which I thought would contain interest, there were some in which the amount was charged in the bill; but otherwise the interest account shows how it was paid.

Q. Now what is the whole amount of interest paid as shown by the interest account from the time that this accounting commenced to June 1st, 1865? A. I have not got that taken off yet.

Q. After 1861 when do you first find any trace of the Trust borrowing money? A. In August 1862, I should judge.

Q. You find in 1862 an amount paid to Mr. Warren cashier of a bank at Burlington for interest? A. Yes, sir.

Q. When is the next payment of interest to any bank? A. In Jan., 1865, is an entry, \$125, Mechanics' Bank. There is also paid in April to June, 1863, \$14 72, but it does not tell where it is paid.

Q. Do you find that this Trust began to borrow money to any great extent until the building of the M. & Vt. J. R. R., and the purchase of the S. S. & C. R. R.? A. I don't find any until 1865; and the first interest paid to the Bank was the same month.

Q. And you say that at that time the S., S. & C. Road had been purchased? A. I think it had.

Q. Had it been paid for? A. I am not sure the arrangements were all made previous to that. Well, I am not sure the arrangements were all made previous to that, but whether the notes were given or not I don't know.

Q. Well, now from that time forward the Trust began to pay and continued to pay a very large amount of interest, did it not? A. I presume it continued to pay interest. A statement has been furnished containing that information.

Q. Have you got the answer prepared to the question as to whether that nine thousand and odd dollars, correction of errors accruing out of the car service, was included in the statement of division and profits? A. I have not, sir; not yet. I think they received \$9000 odd in addition to their half of the gross earnings; there is nothing included on the M. & Vt. J. books.

Q. Now should not that be added to the amount on the statement already furnished? A. Yes, sir; that should be added.

Q. (By Mr. Walker.) We find among the vouchers, Mr. Merrill, several vouchers for premium on gold paid to Clark and Smith at different times which we understood was premium upon that portion of the earnings of the M. & Vt. J. Road that was collected in currency and entered upon the books as the amount collected, and afterwards the value of the gold was accounted for to them, and they were paid premium. Will you ascertain, also, whether there are any such payments which are not included in the statement, and whether there are any other additions which should be made to that statement as far as you have found out.

The following documents were put into the case by Mr. Walker :—
Statement of losses upon the Rutland Road and its leased lines, \$831,786.14, marked "Exhibit 39."

Statement of losses upon the O. & L. C. Road, \$408,691.95, marked "Exhibit 40."

Statement of expenses of the Boston agency from July, 1861, \$128,600.72, marked "Exhibit 41."

Statement of the cost of the Waterloo Tram Road, \$75,818.44, marked "Exhibit 42."

Court then adjourned until Wednesday morning, August 11.

MORNING SESSION WEDNESDAY, AUGUST 11, 1875.

Court assembled at 9 a. m.

Mr. Merrill re-called by Mr. DAVENPORT.

Q. Mr. Merrill, I call your attention to the account on page 150, Ledger "I," against Mr. Pullman of the Car Company, showing balance of \$21,873.97 due from that Company to the Trust; how did that debt accrue? A. I think it is from building cars for them.

Q. When were these cars built? A. I don't remember the exact date; I should think in June '72.

Q. Whether it was before or after the \$50,000 of stock in that Company was taken by Governor Smith, Worthington C. Smith, yourself, and others? A. It was afterwards, I think. I think that stock was taken at the time these cars were sold to that Company.

Q. And these cars were built afterwards? A. I think so.

Q. During your superintendency? A. Yes, sir.

Q. Was this Trust in the habit of building cars for outside parties? A. They built cars for the V. I. & C. Co.

Q. Do you know of any reason why that debt has not been collected? A. I do not.

Q. With whom was the contract made for the building of these cars whereby this indebtedness came about? A. I think it was made with George M. Pullman, President of the Pullman Car Company.

Q. And who acted on behalf of the Trust? A. I think Governor Smith did.

Q. Had you any knowledge of the contract? A. I think I know of it at the time.

Q. Was it in writing? A. I don't know—Governor Smith tells me there is a contract for running the cars, and he thinks that includes the building of the cars.

(The Pullman contract in question produced and read by Mr. Davenport.)

Q. Do you know any reason, Mr. Merrill, why this amount due, on Ledger I, from the Pullman Car Company, was not collected during your superintendency? A. I don't know, sir.

Q. Why didn't you collect it? A. I was not Treasurer.

Q. You were Superintendent? A. Yes, sir; but I don't know why it was not collected. I think he was called upon for the amount.

Q. There is no provision in this contract for the building of cars? A. None that I can see, sir.

Q. Have you any knowledge of any other contract than the one which has just been read? A. I don't think I have.

Q. I presume these cars were built under a written contract? A. I should judge they were. I know of no other contract with the Pullman Company but this.

Q. Do you know what price the Trust received for building these cars? A. I think there was no contract price; they were charged, I think, for material and labor, except for such material as they furnished, such as trimmings, and other light work. A good deal of the material used in the light work was supplied by the Pullman Car Company.

Q. Up to the time that this contract was made, with the exception of the year that Wagner ran sleeping cars under his contract, the Trust owned and operated its own cars? A. They did, with the exception of that period when Mr. Smith had them for a short time.

Q. Had the running of the sleeping cars and drawing room cars become a source of profit to the Trust? A. Some profit, not very much I think. At first it was a loss, but the trains gradually gained.

Q. Well, had it become a source of profit previous to '71? A. I am not sure that it had, we had a good many drawbacks to contend with. A great number of persons knowing the Company owned cars wanted ride free, and it was difficult to collect from a large class of employees the money for their berths. In addition to that there were a good many claims against us for infringing patents. Our running cars was an infringement on Mr. Pullman's patent.

Q. Had there ever been anything paid by the Company? A. I think there had not; I had expected these claims would be enforced but they were not. Mr. Wagner, as I understand it, paid Mr. Pullman for some patents of the Pullman car; Mr. Wagner had some claims for infringement of his patents.

Q. Was this \$21,802 30 due to the Trust at the time that the new Receivers were appointed. Was it turned over to the new Receivership uncollected? A. I presume it was.

Q. Have you any knowledge of whether that debt has been collected? A. I don't know; I cannot tell.

Q. I now call attention to Ledger I, 537; what was the balance due to the Trust from Linsley & Co., as shown by that Ledger, at the close of this Receivership? A. \$38,574 63.

Q. What was done with that indebtedness? A. It was passed over to the Central Vt. R. R.

Q. Do you know why the debt was not paid? A. I think there was an offset.

Q. And that only represents one side of the account, then? A. I think so.

Q. And in point of fact there was nothing due to the Trust from Linsley & Appleton? A. On looking at Ledger H, 120, I find there are no credits to them at all. There are payments on account. They filled a large dock at Burlington, of six acres or more, and there was some question as to the amounts of filling that they received pay for that has never been settled.

Q. Is there still a balance due from the Trust to them? A. I think they claim a balance due to them, but the Trust claim otherwise.

Q. Why was that transferred to the new Receivership as an asset to the Trust and as a debt due to the Trust? A. Because it stood so in the books.

Q. Will you now look on the Spencer, Vilas & Co. account, on the same page, 416? A. It is here.

Q. When did that account accrue; between what periods? A. I think it accrued in Dec., '72.

Q. Have you any knowledge of the transaction which resulted in that account? A. I have no personal knowledge. They sold bonds belonging to the road and it was in this transaction that this balance accrued, as I understand.

Q. What is the balance which the Ledger shows due from them? A. \$21,853 92.

Q. Whether that was turned over to the new Receivership as an asset? A. It appears to be by the Ledger.

Q. What do you say with reference to its being of any value? A. I don't know. I have no means of knowing.

Q. That accrued during your Superintendency, did it not? A. I think it did.

Q. Who had charge of the transaction? A. I think Mr. Cheney had. I had nothing to do with the issuing of these bonds.

Q. Did you have anything to do, and if so, what, with the transaction which resulted in the loan—if it was a loan—of \$6,000 to the Woodstock R. R.? A. No, sir. I knew of it at the time, I think.

Q. Did the money pass through your hands? A. It did not.

Q. Is there any voucher to your knowledge in existence for that money? A. I don't know. I should not be likely to know.

Q. To whom did you understand that the money was delivered;—you said you was knowing of it at the time? A. Well, I know a loan was made, but don't know to whom the money was delivered.

Q. Is there, to your knowledge, any voucher for it? A. There is not. I know nothing about it.

Q. Who had charge of the issuing of free passes? A. Governor Smith and myself gave them mostly.

Q. Is there upon the list or upon the books of the Trust any list of the free passes issued from '67 to '73? A. I don't know, sir. There

was in the office, I think, a list of passes when I left, but I don't know where that list is now.

Q. In what department are these lists to be found? A. Those issued by me were left in the Superintendent's office, I think, in the safe.

Q. Were they entered upon the book? A. I presume so; with the exception of the exchange passes. The names were not entered on the exchange passes, although the lists were preserved.

Q. Will these books show, if they are produced, the number of exchange passes and the number of annual passes issued from year to year? A. They will. They will show the number issued by me.

Q. Will you see, Mr. Merrill, whether you can find that book? A. They are not all kept in one book. Well, I have one book which contained these entries.

[Mr. Merrill here went to find it.]

Witness: I cannot find it just now; I don't know where it is.

Q. During the time that you were Superintendent what Express Companies had control of the business done upon the Trust roads? A. United State & Canada upon the Boston Line, and the National Express Co. between Rutland and Montreal and the New York Line by way of Troy.

Q. Did you include the Sullivan R. R.? A. They had the Sullivan Road under a separate agreement.

Q. Who constitute the United States & Canada Express Co.? A. I don't know the names of all the parties—Mr. White of Concord, Mr. Cheney, I forget the names.

Q. There is an Express known as the Cheney & Co.'s Express, is there not? A. That was the name of the Express Co. some years ago; its present name is the United States Express Co.

Q. Is the United States Express Co. the same that was known formerly as Cheney's Express? A. I don't think that is the same Co., but it succeeded that.

Q. Is there an Express Co. of Fisk, Rice & Co.? A. There used to be a Fisk, Rice & Co. who had an Express business over the Sullivan Road. Fisk died, and after that I think it was Fisk, Cheney & Co.; but perhaps after Fisk died it was called the United States & Canada Express Co.

Q. During all the time that you were Superintendent was Mr. Benjamin P. Cheney interested in the Express Co., or Express Co.'s, which had control of that business over the Vt. Central, Vt. & Canada and Sullivan Roads? A. Yes, sir, so far as the Boston business was concerned.

Q. Now, what was the compensation paid by Cheney & Co. for the express business on what you call the Boston Route? A. The price varied; it was raised at different times. He paid a certain rate, I think, from White River Junction to Burlington, and a certain rate from Essex Junction to St. Albans, and another on the Ogdensburg Line, and from here to Rouses Point, and also a different rate from here to St. Johns.

Q. Were the contracts between Cheney & Co., or the United States Co., and the Trust in writing? A. They were not—not the later ones.

Q. Were the earlier ones in writing? A. I guess they were. I am not sure about that—I don't know whether there was a written contract or not; I don't remember ever seeing any.

Q. Who was the bargain made with? A. All the bargains made after I came on the road were made by me—I think with me personally.

Q. What bargain did you make with him when you first made a bargain? A. I don't recollect, I advanced the price I think twice or three times with him.

Q. Cannot you tell, Mr. Merrill, what the price was? A. I cannot from memory, my books will tell if I had them here.

Q. Will these books tell what was received? A. I presume they will only tell the price of the contract.

Q. Will you furnish a statement from the books of the amount which Cheney & Co. paid to the Trust for the use of the road for their express business from 1861 to 1873, and show the different prices paid on the different roads? A. Yes, sir; I will endeavor to furnish such a statement.

Q. Now, Mr. Merrill, can you tell what amount of freight was transported for these express companies? A. I cannot.

Q. How many cars did they ordinarily run upon each passenger train? A. Only a part of one.

Q. Running how many trips per day? A. They ran on three trains to Boston, I think, and two from Boston on that line over the Vermont Central Road. I think they only used half a car.

Q. Mr. Merrill, is it not true that Cheney & Co., or the United States & Canada Express Co. have the control of the express business from Essex Junction to Rouses Point? A. They have the business going along the Ogdensburg Road, but not going to Montreal.

Q. Have they not the exclusive control of that, and don't they sublet to Virgil & Co. or the American Express Co? A. No, sir; I think not; the National Express Co. pays I think \$7500 per annum between Burlington and St. Johns.

Mr. Linsley called and sworn; examined by Mr. DAVENPORT.

Q. When did you enter the employment of the Trustees and Managers of the Vermont Central, and Vermont & Canada Roads, as their engineer? A. I cannot tell. I commenced my first service on this line of road for the Vermont & Canada Road; and when it was I transferred my service to the Managers I cannot give the date. I went along from time for about a year with the Vermont & Canada, and I continued in the service of this road, and commenced in the first instance in 1859, I think the latter part, if I recollect right.

Q. And for how long a time did your services continue? A. Well, I continued in the service of the Vermont & Canada, or the Trustees and Managers, I think, until about 1867, that is 6 or 7 years altogether.

Q. Whether you were the engineer who supervised the construction of what is called the Burlington branch? A. Yes, sir. That was my first service here.

Q. Whether you supervised the construction of the Swanton branch? A. Yes, sir; I did.

Q. Whether you supervised the construction of the M. & Vt. J.? A. Yes, I did, sir.

Q. About when did the construction of the Burlington branch commence? A. I should think in 1860. I cannot say positively.

Q. When concluded? A. I think it was about two years before we got it completed.

Q. Who was the contractor for the construction of the Burlington Branch? A. It was divided into separate contracts; there was no one particular contract for the whole road.

Q. Who had the various contracts? A. My father had a contract for grading and digging; the contract was not let; I think it was laid by the day.

Q. Was the contract with your father as an individual, or a contract with the firm of which he was a member? A. I cannot recollect. My father was the principal person, and I am inclined to think it was in his name alone. I remember at the time he was proposing to have with him in the work a Mr. Alexander, who had been with him for a considerable time before, but I cannot say whether he was a party or not.

Q. Do you know whether the contract with your father was in writing, or not? A. I think it was, sir.

Q. And is that contract in existence to your knowledge, yet? A. I cannot tell.

Q. Where are your father's papers? A. My father's papers are at his home, I believe; they are not in my custody; I never had any charge of them.

Q. Have you in your hands specifications for the construction of the Burlington Branch? A. I don't know that I have. I don't think I have. They were printed and distributed, but I don't know whether I have a copy or not.

Q. Was the Burlington Branch completed before the Swanton Branch commenced? A. Yes, sir; I think it was. I ought, perhaps, to explain about that: There was a time fixed in the charter for the completion of the road. There was very great difficulty, I remember, in getting a train of cars over the road so as to meet this requisition of the charter. Well, we got a train through at the exact date; yet the work was not completed, but only the track laid, and it took a good deal of time after that to complete it; and there was, as I said, more track laid by the day. And I think there was some settling on the swamp done by the day. I don't know the exact time that they ceased, but we went on in that way until the work was terminated.

Q. When was the Swanton Branch commenced? A. I think in the summer of '63.

Q. Whether the M. & Vt. Junc. Road was built contemporaneous with the Swanton Branch? A. Yes, sir; I think it was. Perhaps it

did not begin at the same time ; probably not, but it was supposed that the work was going on at the same time in both places.

Q. Whether it was completed at or about the same time ? A. Yes, sir, nearly.

Q. Have you in your possession the specifications for the work on the Swanton Branch ? A. No, sir ; not that I know of.

Q. Have you any profile of that road ? A. No, sir.

Q. Did you ever make one ? A. Yes, sir, I did ; I presume we had perhaps half-a-dozen of them.

Q. Have you any knowledge of what became of all these profiles ? A. My impression is that they were left here ; but I don't know positively.

Q. At the general office here ? A. Yes, sir ; I suppose all the papers would be here if anywhere ; that is where I should look for them.

Q. Were you upon the road during the whole period of its construction—that is, of the Swanton Branch ? A. I think so ; not constantly, but I continued to exercise supervision of the road and its construction.

Q. Did you have any subordinate ? A. I had, sir, several.

Q. Who were they ? A. Mr. William Hale was the principal assistant. I don't know the names of the younger men.

Q. Where is Mr. Hale now ? A. I believe he is in town ; I saw him coming here on the cars this morning.

Q. Who had the contract for the construction of the Swanton Branch ? A. John F. Barnard.

Q. Was that contract in writing ? A. I think it was, sir.

Q. Drawn by you ? A. That I cannot say. I don't recollect specifically about it. I don't know that I ever carried on any such work without a written contract.

Q. Do you know where John F. Barnard is ? A. No, sir.

Q. Where was he when you last saw or heard of him ? A. I don't think I have seen him but once since he was here, and that was once in Chicago some few years ago. I met him there accidentally ; I don't know the day or date. He said he was in the south part of the State.

Q. Was his business at the time, and before and since that, a railroad contractor ? A. Yes, sir ; he has been a contractor ever since I knew him, which is about 25 years.

Q. Did he have the contract for the building of the whole road—that is, the whole of the Swanton Branch ? A. Yes, sir ; I think so.

Q. Was he to build the road for the cars to pass over it, to furnish ties, iron, &c. ? A. I think his contract was to do all there was of it to do.

Q. What is the length of that road ? A. About 10 miles ; my impression is a trifle over.

Q. What is the character of the surface of the ground over which it passes ? A. Do you mean as to the nature of the soil ?

Q. Well, I mean as to the smoothness, cuts and fills. A. I should think the south end is difficult and the north end smooth.

Q. Is there any rock cutting, and what amount ? A. I cannot tell you the amount. There was heavy work at this end, as I have said.

at its crossing of the Missisquoi river, and also after you pass Swanton—about half way. Then half of the north of it is comparatively level. There is a bridge and some swamp work there.

Q. Have you any recollection of any extensive rock cutting? A. There is no extensive rock cutting; we expected it on one part of the road, at Mr. Ferry's, but I don't recollect how much cutting we had there; there was some at another point on this side.

Q. How many bridges are there on that road? A. Two large bridges.

Q. About what length? A. I don't recollect, sir; one of them consisted of two spans, and I should think they were about 150 feet each. But it is not from any recollection of the number of feet, but from my recollection of the general looks of the bridge that I speak.

Q. Have you any recollection as to what amount Mr. Barnard was receiving for the building of that road? A. I don't recollect now the precise figures, whether it was a gross sum, or a certain amount per mile. My impression is that it was a certain amount per mile, but I may be mistaken.

Q. What is your best recollection as to the cost of the road per mile? A. I don't recollect, Mr. Davenport. My recollection would have to be a mere matter of judgement as to what it might cost, more than any recollection of facts as to what the contract was for.

Q. Do you remember, Mr. Linsley, of furnishing reports to the Vt. & Canada Road? A. Not specifically, sir.

Q. You have no recollection of the amount per mile which that road cost? A. No, sir, I have not. I could not say anything about it from recollection as to figures. I don't remember what it was for, as I have said. My general recollection is that it was for the complete finishing up of the road; but whether a total amount was to be paid for the work, or whether it was so much per mile, I cannot recollect. My impression is that it was one of these ways. In explanation of your last question, I would like to say that I don't recollect that I made any reports to the Vt. & Canada. It is altogether probable I did furnish a report to them, but nothing specifically;—perhaps every month, or at longer intervals; but they would be only brief reports of the work, furnished by the engineer, and without anything special that would fasten it upon my mind.

Q. What is the length of the M. & Vt. J. Road? A. About 22 miles; perhaps a little over that.

Q. Whether you made a contract to construct the road? A. Yes, sir.

Q. With whom did you make that contract? A. I made it with the Company.

Q. Represented and acting through whom? A. The Board of Directors.

Q. Who were the persons constituting that Board? A. I don't now as I can name them all. There was Mr. Philip Moore,—he was president of the road; Mr. Smith, Mr. Clark, Mr. Brainerd, Mr. Deriviere, and I think Mr. Baker. There may have been others, but I don't recollect.

and I found that as the premium grew higher, every dollar that I put in began to grow less and less in value, until finally I had to put in two and a half dollars U. S. currency as an equivalent for one dollar in Canada currency. I mean that two and a half of this money would be worth one dollar there. At this time the relations between England and the United States got disturbed, and I got alarmed, and thought that in that case the railway would not be worth anything, and I was very anxious about it. I had put in some money, and was liable for a considerable amount, and I became very uneasy and very much afraid, and I represented to these gentlemen that I could not stand it, and could not get on with the work as it was ruinous to me. I was very anxious to get out of it, that is true, and for reasons that I have mentioned. So I objected to doing any more work. They were very anxious to have the Road finished, and after a great many discussions about it, I finally succeeded in the arrangement that they should relieve me, and that was what I wanted. They assumed all liabilities that I was under—that is, they returned me what I had put in in cash; but I lost the interest of it, and also my time. But that was the bargain I made with them, if I failed to do the work. At the time I failed I considered I had made a very excellent escape, and that I was in a very unpleasant place. The war cloud had gone away after I had left the work. This was at a time when the premium on our currency got up so high I was disturbed by the relations between the two countries, and I thought if the relations were broken off, the Railway would not be worth anything, and the money I had put in would be lost. This gave me great trouble, and I thought I should be ruined, for, as I said before, I had no other interest that prompted me to do the work but to see what I could make by it.

Q. How much did you invest, yourself, in the road at the time you made this arrangement for the road to be taken off your hands? A. I cannot say how much. I think I had about \$26,000 in cash that I put in there. The amount of liabilities I don't recollect; I had no specific statement of them. I should say, well, perhaps something more than that.

Q. You had put in of your own funds \$26,000? A. Well, it was not far from that amount, sir.

Q. In what currency was that, gold or American currency? A. I cannot tell, sir; for this reason: When the first was put in it was nearly equal; that is, the currencies were about alike. There was not much difference, no more than 10 per cent.; and, I would further explain, if any of you gentlemen were doing business with Canada at that time you would understand the difference in the money values of the two countries. For a considerable time people in the border towns would take our money, until it got to considerable premium, and finally they would not take it at all. They got alarmed about the currency and would not take it at all.

Q. Had you collected the stock subscriptions at the time you gave up the contract? A. I don't know how much, sir, but there was some considerable paid. There was a great deal behind, too. I cannot say how much; some of them were very slow. I don't think, though, they were all paid when I left the road.

Q. Had you realized the town bonds? A. Well, sir, pretty much, I think.

Q. How much did you realize from the town bonds? A. I think about 90 cents in gold.

Q. The Canadian stock subscriptions, so far as they were paid, were paid in Canadian currency, were they not? A. Yes, sir.

Q. How about subscriptions on the Vermont side, were they paid in greenbacks or gold? A. I cannot tell you, sir, because they were not paid directly to me as subscriptions. In this contract I made with the M. & Vt. J., I made only upon the condition that the Directors on this side would undertake to furnish or negotiate a certain amount of that stock and furnish me with the money for it. That was part of the agreement, that they would do so. This negotiation for the contract was with the full Board of Directors, I think.

Q. (By Mr. Willard.) Do you mean stock or bonds? A. They were to negotiate stock and furnish the money for it. They guaranteed it, and, as I said, it was part of the agreement that they should do so. I would explain about that contract more fully. The Directors of the Canadian Road instructed me to advertise for the construction of the M. & Vt. J. R. R.; I was the engineer; I don't know that I was formally appointed, but I was recognized as the engineer. Mr. Moore, the President, set me to work there; I don't know that he gave me any written appointment. I located the road and made a report, and when the Directors met they discussed the matter, and directed me to advertise for proposals to build the road. I did so, and we had quite a large number of proposals for the road. They were in various forms as is always the case; but there were very few of them that would take anything but cash, and the Directors appeared unwilling to let it in that way. The Canadian members of the Company thought the road should be let to somebody who would undertake to take a certain amount of payment in stock. They did not decide anything at that meeting, but directed me to persuade some of these men to take the larger amount in cash instead of the whole amount. I then made an estimate of the road, and thought I could build it for \$20,000 per mile. They asked me if I still felt confident, in the face of the various bids that we had had, that I could build the road at that price, which was considerably less than the amounts named in the other tenders to build the road. I said I thought I was sure I could build the road at that price, and thought that I could do so and by giving it out in small jobs, a piece here and a piece there, that I could get through and save something of it then. The Directors had another meeting, and in the course of it some one said to me, "would you be willing to take it?" and I finally said, "if these gentlemen from the States who have stated that they would furnish so much money will put that agreement in writing I will go on and build the road for that amount"—\$20,000 per mile. This request of mine was referred to these gentlemen to see if they would make such a written agreement to stand by me and secure such a negotiation, and they finally gave me that written agreement. I don't know whether it was on the contract, but I know I had it in some form. The agreement was that

they should take the stock that was to be part of my payment for building the road and furnish the money for it.

Q. Who was that agreement with? A. I think Mr. Clark and Mr. Smith.

Q. Was Mr. Foster one of them? A. He was, but he was not in the States, he was on the Canada side. I think Messrs. Clark, Brainerd and Smith represented this side of the line, but I don't think Mr. Brainerd undertook to assure me. I think Mr. Foster did; he told me he would help me through, that he would furnish some iron, lumber and ties; but I do not recollect that he assumed anything for them.

Q. Now, you had a guarantee in writing of Clark and Smith that they would dispose of certain securities at a price named and account to you for the money? A. Well, I don't think the price was named; this stock I understood to be at par; I don't think there was any proposition that they should do it at a fixed price; so far as the debentures were concerned, I think the price of these was established at about 90 cents gold.

Q. When you speak of debentures you mean the \$200,000 don't you? A. Yes, sir, if that were the amount; I am not sure of the amount. I mean the Government Municipal Debentures; they were worth 90 cents on the dollar. I considered them safe at that amount; they sold in Montreal at that price.

Q. Now, did you negotiate \$200,000 of bonds secured by mortgage? A. No, sir, for this reason: As I went along there had been no opportunity to negotiate these bonds I had on hand. I applied to these men to help me, and they had taken that off my hands. I did not have the stock then, or at any time. This \$100,000 did not come to me personally; it was subscribed to the road. There was no point of time when they were to furnish the money, and I went on drawing money from them when I needed assistance.

Q. Who was it you applied to, Smith or Clark; whom did you receive the money from? A. Well, I think I received it mainly from Mr. Clark, and in parcels from five to ten thousand dollars at a time, perhaps more. But I don't think that at any time I had over \$20,000.

Q. Was that in gold, or United States currency? A. Mainly in United States currency, though some was gold.

Q. How much according to your recollection did you receive from Messrs. Smith and Clark, and from other sources towards your contract at the time you gave it up? A. Well, sir, I cannot say.

Q. Have you any book or paper in your possession that contains the amount of your receipts and disbursements while you were carrying on that contract? A. I don't think I have a single book connected with it. Mr. Kimball, who kept my accounts, kept right on in their employ after I had given up the work and the same books were kept by him. He kept on with them until the road was finished. We had no inventory of the property at the time this transfer was made. When I had the arrangement with them to relieve me I was to find out how much money and cash I had put in the work, and I think I got receipt from Kimball stating the amount that I had put in personally, which amount they were to return to me, and then they were to assure

he work in its then condition. We did not have an inventory of the work ; it was not necessary.

Q. But up to that time you had a book upon which your clerk, Mr. Kimball, had kept an account of all the money you had put in that concern, and of all the money you had received from Smith & Clark ?

A. Well, I don't know whether he kept a book or not ; he kept an account of all the disbursements of the road, I know. As I have told you, I don't remember the precise amount. I kept my own private cash account then, and so far as I could remember it was \$26,000 that I had put in the work from my personal funds. The rest of the money which I did not put in personally, an did not receive from the Treasurer, I had received from Clark & Smith.

Q. What has become of the book which Mr. Campbell kept the disbursements upon ? A. I don't know ; I know they were kept in the office that he occupied. All the books were left there when I gave up the work ; I walked right out of the office and left them.

Q. And all your books and papers were handed to Mr. Kimball ? A. They were in his possession ; I never took them out. I simply walked out of the office and left the things as they were.

Q. But did you leave the work altogether, or did you continue to supervise it ? A. Well, sir, I think I walked out ; I mean I had no further interest in the matter. I agreed to do what was commenced, as these gentlemen claimed they could not personally look after these things, and that I should stay and supervise ; and I did so without any compensation.

Q. So that in your experience in building the M. & Vt. Junc. you never made a penny ? A. No, sir ; I am out of pocket, I am sorry to say.

Q. You lost the whole of your time and interest on the amount that you put in the work ? A. Yes, sir.

Q. Did you or not transfer this contract, or yield up this contract to any particular persons or to the road ? A. Well, I cannot say, Mr. Davenport, for this reason—these gentlemen were the Managing Directors and all our conversations were informal ; they gave their instructions as they were entitled to about it. I don't think I have received a formal communication from them. I don't think a word was said whether they were treating with me in a private capacity, or as Managing Directors.

Q. Do you know who it was went on and built that road—that is, the M. & Vt. Junc.—was it Messrs. Foster, Smith & Clark ? were they the Managing Directors ? A. Well, all I know now is, as I told you ; I cannot recollect whether the charge was made to them as individuals, or as Managing Directors ; I think it was to them as individuals, but I don't think a word was said about it.

Q. You think you surrendered up to them the contract which you had for the building of that road as individuals. Did you take from them their agreement that they would indemnify you against liabilities which you had assumed ? A. I think I took such an agreement, sir.

Q. Where is that agreement? A. I cannot say. I may have now, but I do not know that I have. I have not looked over my paper for years.

Q. Who was that agreement signed by, do you know? A. I think it was by Foster, Clark and Smith, or else by Clark and Smith alone. I think I must have such a paper, but I don't recollect.

Q. And they relieve you of all liability? To how large an extent were you indebted at that time? A. As I said before, I cannot tell you about these liabilities, because we did not have any statement of the accounts of the liabilities of the concern. The only statement I had was that showing how much I put in in cash. What the condition of the contract was exactly I don't know. My impression would be that it was as much, and perhaps something over that sum—\$30,000 or \$35,000.

Q. You think you owed that amount? A. I would not be surprised if it was fully that.

Q. Did you pay for the iron you spoke of? A. A good deal of it, sir. The iron Messrs. Smith and Clark paid for, mostly; or, I suppose Mr. Merrill paid for it and took these debentures to do so. I think he negotiated part of them and charged up the amount for the iron to me, and I had to settle for it.

Q. Was that before you were relieved of the contract? A. Well I don't know how much of it. A portion was, and the larger portion because, as I have said before, the larger portion of the iron was on hand when I gave up the contract.

Q. Were the ties in use on that road on hand when you gave up the contract? A. Not much, beyond what was laid. I think the ties that were obtained for the road came off the line of road mostly at Pike River, and beyond that. There were very few ties came from this side of there. I think we did not get our ties from the S., S. & C. Road any faster than we laid them;—we did not take them out. I think the ties that we had from Pike River direct, perhaps, would not have laid farther than Stanbridge; and I am pretty sure there were not many ties there at the time I gave up the contract.

Q. Had anything been paid for these ties? A. No, sir.

Q. Was fencing included in your contract? A. Yes, sir.

Q. Was land damages included? A. I think not.

Q. The Company were to furnish right of way? A. Yes, sir. I think they were to furnish nothing but right of way; I was to furnish everything but that.

Q. Were you to furnish depots? A. Yes, sir; I think I was to find everything that was required to complete the road. There was not built when I left the contract.

Q. If you had gone through with that contract, Mr. Linsley, had not been disturbed by the appearances of a collision between the United States and England, you would have made a good thing of it, would you not? A. Well, I think if the currency had not changed would have made something out of it.

Q. Well, was it the change in the currency, or the appearance of a collision between the United States and England that induced you to quit the contract? A. Well, the change in the currency would

have been such a formidable reason ; if the Directors had not pushed me to sharp performance of the contract I could have held on till I could get something out of the earnings of the road, as I was to have that for five years. I calculated the earnings would have been in Canada, and the money I could have got from that source would have helped me through without much loss.

Q. Was it part of the contract that you were to have the earnings of the road for five years? A. Yes, sir, it was—that is, I was to have five years to build it in, and all that I got done before I was to use if I wished. I was to have five years from the date of the contract, or from the time we got it running.

Q. Well now, if you had hurried it up, and got it to the point of the condition it was in the summer of '64 or the fall of '64—would it have been possible for these Directors to have hurried you up and got the advantage of you? A. Well, I did not want to do anything more in the matter, I wanted to get out of it.

Q. Well, I understand that, but standing here now as you do, and looking back on the transaction do you think, if you had not given up that contract, that you would have lost your time and the interest on your money? A. No, sir, I would have tried hard not to, and I don't think I should have lost my interest and time. But looking back now I think I acted for the best as I thought then; and I should do the same again if a similar circumstance arose.

Q. How much of a profit do you think you would have realized had your courage held out, and you had gone through with the work? A. I don't think I would have realized anything as it stood; but owning the securities, and a large interest in the stock, I should have calculated to have got that fixed, so as to have had enough to come out all right. But with five years to hold the Road and stocks, and trying to improve that, I think I should have had time to get out well. I should have tried to have saved the interest on my money, and also my time.

Q. Well now, you paid all your bills for supplies and labor in Canada currency? A. I paid what I got on that side in Canada currency; but I got all I could this side.

Q. Do you remember what price you paid your laborers? A. I cannot tell you, except that I think we commenced at about \$1.00, or \$1.10 per day. Wages advanced steadily, and I think we paid as high as \$1.50, and more than that perhaps before we got through. That was in silver. I give you my best recollection about the thing, but I cannot remember specifically. My impression is that the average price was \$1.10 or \$1.15 per day.

Q. Was the cost of that Road seriously affected by the change in the relative value of greenbacks and gold on the American side of the line? A. Yes, sir; it was affected.

Q. Was it not really affected by the large demand for men for military services which increased the price of labor? A. I don't know how far that affected the price of labor; I expected when I took the contract that I should have to embark all my personal means to get it through. My funds did not procure proportionately what they should, because I had to pay them in gold in the first place.

Q. That is your own means? A. Yes, sir. All that I supplied had to be put into Canada currency; all the money that I had was in American currency, and I had to pay the difference between it and the price of gold. I think I could have held the Directors to the payment of the contract in Canada currency, as the old contract was on the other side.

Q. (By Mr. Willard.) Do you mean to be understood that on the money you received on stock subscriptions you received any greenbacks? A. No, sir; only such subscriptions as were made on this side of the line.

Q. (By the same.) There were no subscriptions on this side except by Messrs. Smith and Clark, were there? A. I don't recollect positively, I think there was. I think Mr. Brainerd was a subscriber, but am not positive. There was no general subscription that I know of, I think it embraces more names than Smith and Clark, but I only saw the list once.

Q. Was there a \$15,000 subscription on this side of the line? A. I don't know what the amount of it was; I think it was \$5,000 each for Smith, Clark and Brainerd, but I am not sure; I never saw the stock book; I think I had no knowledge of it.

Q. But you received the amount of their subscriptions in greenbacks? A. Yes, sir.

Q. You were entitled to have anything on the Canada side in Canadian currency? A. Yes, sir.

Q. Then the only matter that there was any doubt about was the subscriptions made by Smith and Clark? A. Well, as I understand it, they agreed to negotiate a quantity of this stock and furnish funds for it. But I presume that was not upon the books of the Company; it was an agreement made at a meeting at the Bay. At the time I got out the contract I did not know how it would turn out.

Q. Had you received at the time you made the arrangement to give up the contract the avails of these Canada securities in gold or Canadian currency? A. Well, I cannot say about that, Mr. Davenport. I have said before, I cannot state what the date of it was. Mr. Merrill negotiated a number of bonds in Montreal, and obtained gold for them, with which, I think, he paid for the iron which was charged to me. But I never had a final settlement with them about it, and I was not sure how they would finally treat this undertaking. In regard to subscriptions, whether United States or Canadian currency at the time the agreement was made, I did not consider it material; the difference then in the currencies was not much.

Q. Was Mr. A. B. Foster a bidder for the contract to build this road? A. No, sir.

Q. He did not put in any bid? A. I think not, sir.

Q. Did he at any time claim to you that he had a right to the contract to build that road? A. I think not, sir.

Q. Did he ever ask you to give him a quarter interest in that contract? A. No, sir.

Q. Did any one in his behalf, or in behalf of anybody else ask the privilege of going in with you? A. No, sir.

Q. And no one but yourself had any interest in that contract? A. Nobody but myself, until I assigned it to the parties who took it off my hands.

Q. And had you gone through with it, neither Mr. Foster, nor anybody else, would have had any right to any share of the profits if there had been any? A. No, sir; except as I understand they would have had the interest that they had in the stock, but no other. We should have substantially have owned the road—that is, the stock that I held and that they held, would have controlled the road.

Q. I understand you now as saying that, if you had gone through with the matter, you, Foster, Smith and Clark, would have virtually owned the road? A. I said I expected when the contract was done that we should have so take so much stock before we should get through. They agreed to take a certain amount, as I told you. There were some one hundred and odd thousand dollars subscribed in Canada. These gentlemen would take a portion, and I expected I should have a portion on account of that contract; and what they put in, together with stock that I held, would leave the road under control of Clark, Smith and myself. I think there were only these two gentlemen agreed to furnish anything. We should have held the road just as any other parties having a majority of the stock of any Company would.

Q. Do you mean by that, Mr. Linsley, that you three gentlemen would have owned a majority of the stock? A. Yes, sir.

Q. And could control its policies and establish its business? A. Yes, sir.

Q. How would you become owner of any part of its stock? A. By holding its stock.

Q. How was it you became owner of the stock under the contract? A. Well, they paid me only a little in cash, the remainder was in stock.

Q. Was the stock issued beyond \$20,000 per mile, which you were to receive? A. I don't know how much stock was issued, or how much the capital stock was.

Q. Perhaps I don't get the right impression, but I understand that there was \$60,000 or \$70,000 municipal bonds, \$200,000 mortgage bonds, and stock subscriptions in Canada to the amount of something more than \$100,000. Well, now, was there \$115,000 besides that? A. No, sir, not besides that. The entire subscription of the towns was paid for by these debenture bonds.

Q. Well, now, do you mean to be understood that you would have any interest in stock that the town of Stanbridge subscribed for; that is, \$50,000? A. No, sir.

Q. Well, now, what stock would you and Smith and Clark have owned when you got through? A. The first interest would have been on the bonds of the road substantially, and then there was the stock subscription—I don't know how much, but they were to negotiate stock and have a quantity taken here in the States, which they controlled, as I understand it, and held the entire original majority of the mortgage of the road, and these subscriptions, I should judge, would give the control of the property.

Q. How much towards the \$20,000 per mile, or \$440,000 on the whole were you to have? A. Well, I cannot tell, Mr. Davenport. I was to have the subscriptions and the amount of bonds, but I don't recollect distinctly whether \$150,000 or \$200,000; it was along in that neighborhood. It was not a large amount of bonds on the road, and how much stock there was I don't know. If there was any I don't know. It was not a large amount of stock. I expected these gentlemen would furnish most of the money for the stock. I did not subscribe for any myself; I expected they would negotiate a considerable amount, I think \$100,000.

Q. Were you to take any stock in payment of your contract? A. My opinion was that I was to take these municipal debentures as soon as they were issued. My impression is, also, that I was to take an amount of stock—something of all their securities, bonds and stock, &c.

Q. Cannot you approximate the stock you took? A. I cannot; I only recollect the Directors contracted to take the bonds and stock, and furnish me cash with the stock they disposed of.

Q. (By Mr. Willard.) I understood you to say some time since, that these Directors guaranteed that they would take care of your sale of a certain portion of that stock; I understood that it was that portion that you were to have on this contract? A. No, sir, not at all. They were to furnish, I think, \$100,000 cash, but my recollection is not clear, and it is much less clear as to whether it was all stock or bonds; my impression is that it was all stock.

Q. (By the same.) That could not be of any consequence to you then? A. No, sir. The towns were to furnish us \$100,000 money, and there was to be about \$300,000 or \$400,000 more money put into it, and my expectation was that amount was in addition to the town subscription, and that that could control the road—that is, the money that built the Road, if it was furnished would substantially control it when it was done. That was my idea.

Q. When you went out of that, you left Smith and Clark, and Foster if he was concerned, which you are not certain about, in the same position which you were in, as to their rights to stock, bonds and cash? A. Yes, sir; I turned everything over to them; they were to step into my shoes, and assume the liabilities and rights that I should have had to assume, and relieve me from loss or claims against the contract.

Q. Do you remember what your iron cost you for that Road per ton? A. I don't, sir. The iron that Foster furnished was without any agreement, he simply sent it along, and I expected it to be settled at the end of the contract.

Q. Well, that came to you without any payment or duty upon it, did it not? A. Do you mean the iron from Mr. Foster?

Q. Yes; and also the iron that was bought. A. No, sir; I paid duty at St. Johns on the iron that was bought.

Q. Is there any duty in Canada on iron coming from England? A. I think there is, sir. There was a small duty at St. Johns; I think it amounted to several thousand dollars. It was not a large duty, but the aggregate made quite a large amount.

Q. Still, have not you an idea of what it cost per ton? A. My only idea is the general value of iron at that time—\$50 or \$60 per ton, I think.

Q. In gold? A. Well, I should say about \$50 or \$55; that was the worth of it at that time on the Canada side of the line.

Q. Could you not buy iron here in America at that time for gold? A. I don't know, sir; I should think not.

Q. What became of your bills for the iron you purchased; were they turned over to Smith and Clark? A. Yes, sir, every paper.

Q. And you have not the slightest idea of where these papers are? A. I have not, sir.

Q. Can you tell where Mr. Kimball is? A. Last time I heard of him was in Portland, Oregon, keeping hotel.

Q. What was his name? A. Orville Kimball.

Q. Do you suppose he took the books with him? A. I don't think he did. I left everything in the office, and he remained there. I left all the papers there.

Q. What is the character of the surface of the road from the line to St. Johns over which this M. & Vt. J. is constructed? A. It is easy.

Q. Are there any cuts or fills of any magnitude? A. There is one pretty considerable fill, three quarters of a mile, at White River; then it is what you would call a surface road. There are one or two small bridges, and a good deal of heavy timber on the road.

Q. What is the length of the Pike River bridge? A. I don't recollect, sir; 150 feet I suppose. That is the only bridge of any length on the road. I wish to correct myself. My impression was that it was a single span bridge, and I think it had more than one span; if so it was longer than I said, but I don't recollect distinctly.

Q. Had the Pike River bridge been built at the time you gave up your contract? A. I think it was built, sir; Foster built the bridge.

Q. Do you remember the price which you had to pay Foster for the building of that bridge? A. I don't remember, sir, that I made any price with him. I am not sure I did.

Q. How does it happen that you let him build the bridge without naming a price? A. I don't recollect. He agreed to await settlement until the road was done.

Q. What do you say to the road being built at this time for \$20,000 per mile? A. I think it could be built for that sum.

Q. And how large a profit would be on it? A. I should not think there would be much profit. It would be a very close figure; still I should think it could be built for that.

Q. When was that road opened for travel? A. I don't recollect sir, when it was opened.

Q. Was the ballasting completed or not? A. No, sir, there was very little ballasting done. I tried to get the road—that is the track—done, and did not do anything in the way of building. In fact I did not do anything but what I was obliged to. Ballasting was not necessary to be done then; it could be done afterwards, but it could be left if necessary.

Q. Do you remember the price you had to pay for ties, or about the price? A. I think the ties I got on the line were about 20 cents, silver, perhaps more. They were hemlock, and I think there was tamarack, too, there. At the time I got the ties I could not see. I should say it was about 20 cents; that is my best recollection.

Q. How many ties did you lay to the mile? A. 2640.

Q. What weight of iron did you put upon the road? A. 56 lbs I think.

Court adjourned till 2 p. m.

AFTERNOON SESSION, WEDNESDAY.

Q. Mr. Linsley, I showed you this morning what purports to be a record of one of your reports, upon the books of the Vermont & Canada R. R., and asked you to examine it and see if you recognized that as a copy of one of your reports; what is the result? A. I have no reason to doubt that it is one of my reports, although I have no recollection about it.

The report in question is dated from engineer's office Vt. & C. R. R., Swanton, Nov. 1st, 1864, and is to be found on the book of the Stockholders' records, Vt. & C. R. R., page —. Report to the Agents of Construction of the Swanton Branch. This report was put into the case by Mr. Davenport and marked "Exhibit 43."

Q. Were you in the habit of making reports? A. Yes, sir.

Q. Do you now remember making that report of the condition of the road at the time it was made? A. As I have stated, I don't recollect specifically about that report, but it seems like mine.

Q. How did the cost of the Swanton Branch of the Vt. & Canada R. R. compare in your judgement with the cost of the construction of the M. & Vt. Jct? A. The Swanton Branch would cost more in my opinion.

Q. How much more should you think per mile? A. That is difficult to answer without thinking over it. It would cost considerable more per mile.

Q. How much more, should you judge? A. Perhaps 50 per cent.

Q. That would be \$30,000 per mile. Is that your best judgement? A. I should think there would be nearly 50 per cent. difference. The iron would be the same in either case and the ties would be substantially the same on both roads. But leaving out the iron and ties, &c., (which would be equal in both cases) the rest of the work would in my opinion cost 50 per cent. more.

Q. That is, as I understand you, that leaving out material, your judgement is that it would cost 50 per cent. more to build ten miles the side of the Line than ten miles on the other side? A. I should think so, sir.

Q. And to what is that difference due? A. It is due to the difference in the country and the very largely increased amount of bridg-

per mile on this piece. There are scarcely any on the other side of the line, then the grading averages heavier.

Q. The M. & Vt. Junct. Road as compared with any Vermont Road is a very cheap road to construct, is it not? A. Well, no, sir; not as compared with any Vermont Road.

Q. Can you name any ten miles of railroad in Vermont that you think could be constructed as cheaply as either ten miles on the M. & Vt. Junct.? A. That would not then be the case. I understood you to ask me whether there was a very great deal cheaper road.

Q. Well, is not the road from the Bullard crossing up to the Canada line about a fair average of Vermont railroad in its cost? A. Well, sir, it would come up to the average fully; I should think it would be a little more than the average, the grading alone would not perhaps but put in the bridging my impression is it would fully come up to the average.

Q. If it is about the average of Vermont roads and if to grade it and get it ready for the iron it would cost fifty per cent. more than it would to grade the M. & Vt. Junct., it must be that Road would cost 50 per cent. less than the average of Vermont roads per mile. A. I should think it would, sir—it is much cheaper than the average of Vermont roads.

Q. That is due to the fact that it passes over a level country and is free from bridges, is it not? A. It has two bridges,—one moderate bridge at Pike River and one at Rock River. I mean free from large and formidable cuts; still, it would average cheap.

Q. Was Mr. Hale associated with you in the engineering department of both roads? A. He was engineer of the Canada Road after I took the contract, and he was assistant for me until that time. He was assistant all the time on the Canada Branch.

Q. (By Mr. Willard). In reference to what you said about the iron: what was the comparative cost of iron at that time in Canada and in this country? A. I cannot say, sir.

Q. I understood you to say this morning that you thought the iron bought for that road was about \$50 per ton? A. Well, the prices were constantly varying, and I could not say from memory with any certainty what was the cost then.

Q. Have you now any clearer in your mind than you had this morning just the terms of the contract, as to what was to be paid you for constructing that road; that is, how you were to be paid? A. They were to pay what they had of Canada money; that is, those bonds and subscriptions.

Q. I understand that the contract was, you were to have \$20,000 per mile and were to be paid first in these town debentures, whatever that subscription was, as part of your payment? A. Yes, sir.

Q. Then you were to be paid in addition \$200,000 in mortgage bonds? A. Yes, sir, whatever the amount was.

Q. Well, all that were issued? A. Yes, sir.

Q. And in addition to that you were to have a certain amount in cash? A. Yes, sir.

Q. That amount you could not state? A. No, sir, I could not.

Q. And beside that you were to be paid a certain amount of stock?

A. I think I was to have some notes also. I cannot recollect how much stock it was. I cannot remember any more than I have said.

Q. Whatever stock you were to take was to be at par I suppose?

A. Yes, sir. I think so and also the mortgage bonds.

Cross-examined by Mr. UNDERWOOD

Q. Mr. Linsley, in this report, a copy of which has been put in—Exhibit 43—does that profess to state anything more than the actual expenditure of money up to that time? A. No, sir.

Q. Well, was there not a large amount of work done at that time that was not embraced in this report? A. There had been no estimate for the iron in that report.

Q. Was Mr. Barnard making large claims for extra work in reference to that matter? A. Yes, sir, he was. That statement represents the amount certified as being done and paid for under that contract, as it passed through my hands. I undertook to say only about what money I knew about.

Q. Barnard claimed that he could not stand it, and could not get through with the contract. He was constantly pressing them and insisted that he must have an advance? A. I have heard him talk over the matter to the agents of construction, but there was never a notice of any change given me. If he received any advance he got it from the agents of construction, not through me.

Q. In relation to the construction of the M. & Vt. J. Road, at time when gold went up to 250 or more, did not Mr. Smith and Clark furnish gold to some extent? A. I should say not a large extent. They undoubtedly furnished me with gold. I recollect one occasion Mr. Merrill gave me some gold. Some of the gold I had came from Montreal.

Q. The price was constantly fluctuating? A. Yes, sir, constantly changing.

Q. Did not wages go up high at that time? A. Yes, sir.

Q. Did men from Canada come over here, and make a scarce on that side? A. Yes, sir.

Q. Do you think, in view of the threatening aspects of the countries, and the difficulty with the currency, and scarcity of labor, anybody could have taken the road at that time and gone on for it for the same amount as you were to construct it for—\$440,000 labor then was, and in view of the circumstances surrounding it I have already stated that I don't think anything could have been got out of it. It might just have been got through with at that price it would depend upon whether the contractor had the gold to pay it. I had plenty of time.

Q. Well, taking that point—supposing anyone had abandoned work at that time, what would have been the result of stopping and resuming it a year or two afterwards? A. I don't know pretty hard to say, It is very difficult to galvanize a dead rail.

Q. You made up your mind that you were going to lose by it as things then looked? A. Yes, sir; and for that reason I wanted to get out of it, and as I have said I find no fault with my judgement then, yet I think if I had continued I could have just got through, still if such an aspect of affairs were to occur again I think I should do just as I did then.

Re-direct examination by Mr. DAVENPORT.

Q. Your report states that the cost of the road up to a certain time was so much. What does that mean, does it mean the amount actually paid or the amount of the Engineer's estimates under the contract up to that time? A. It means the amounts of the estimates that were returned.

Q. Irrespective of whether the money had actually been paid or not? A. Well, so much had been paid, as stated in the report; but there might have been more and I not know it. Supposing you took a contract to build a line of road—I am engineer—I estimate the amount of work you do. The parties you make your contract with may advance you money which I might know nothing about; I only estimate what you do, and what you are paid on this contract as far as I know anything about it.

Q. (By Mr. Willard.) In other words they were entitled to that amount of money at that time under their contract. A. Yes, sir.

Q. Have you any knowledge of any sum beyond what the contract called for being paid for the construction of the Swanton Branch? A. Well, I know this, that when the accounts were finally settled Mr. Barnard was charged with advances in settlement, and also told me that he had had advances along at different times, but nothing came under my personal knowledge. He went to the construction agents for assistance and I knew nothing about his settlements except by the estimates of his work.

Q. When money passed through your hands, or when you paid money to Barnard did you take vouchers for it? A. Yes, sir.

Q. Invariably? A. Yes, sir.

Q. Did you have vouchers for the whole amount stated here? A. Yes, sir, I had vouchers certified and returned to me.

Q. Where are those vouchers? A. I don't know, sir; I did not keep them. They went to the agents of construction or the Treasurer.

Q. They went to Smith and Clark? A. Either to them or to the Treasurer.

Q. Mr. Linsley, did you supervise the construction of this depot? A. Yes, sir.

Q. Have the charge of it from its beginning to its conclusion? A. Not at its beginning, sir; I came in when the work had progressed some.

Q. What was the cost of this depot? A. I cannot tell you, sir.

Q. Have you any idea what it cost? A. I have not. The monies were paid here. I simply approved the bills that I knew were expended at the time.

Q. You had nothing to do with that then? A. No, sir except as I tell you.

Q. Did you supervise the construction of the Burlington depot?
A. Yes, sir.

Q. Did you take charge of the accounts of that? A. I did I think, but I don't remember as to the full extent. I think I had charge of some portion of the accounts. For everything that I paid out for that work I returned vouchers. If I took money it was to pay vouchers, and I returned the vouchers as receipts for the money.

Q. Do you know what that building cost? A. No, sir; I don't recollect the cost. It was under a variety of contracts, a contract for brickwork, one for wookwork, etc.

Q. Can you not approximate the cost? A. No, sir, I cannot; I never had my attention called to it.

Q. Did you supervise the construction of the depot at Essex Junction? A. No, sir; I made some addition to the work there, I think.

Q. Did you supervise the construction of the machine shops here?
A. Only one, I think, sir; only the first building.

Q. Had you anything to do with the construction of the Missisquoi Road? A. No, sir.

Q. With the S., S. & C. Road? A. No, sir.

Q. (By Mr. Willard.) In reference to the payment in Canada to the M. & Vt. J., did you collect these debentures yourself or was it done through the corporation? A. I think Mr. Merrill negotiated a large portion of them in Montreal, and got the money for them, and I think he paid it to me, but I don't remember how much.

Q. In other words you did not take it directly yourself? A. No, sir.

Q. Did you collect any of the stock subscriptions? A. No, sir.

Q. Did you realize anything directly out of the mortgage bonds?
A. I think I did. I profited by them. I did not sell any of them. I think I pledged some.

Q. So that all the collections on these subscriptions and debenture bonds came through the hands of Mr. Merrill, Mr. Smith or Mr. Clark?

A. Well, Mr. Baker paid some, sir.

Q. Well, I mean they came through the hands of the corporation?
A. Yes, sir; I did not make any extensive negotiations of bonds or stock myself.

Mr. William Hale called and duly sworn; examined by Mr. DAY-ENPORT.

Q. What is your occupation? A. Civil engineer.

Q. What had you to do with the construction of the Swanton Branch of the Vt. & Canada R. R.? A. I made a number of surveys and worked there a considerable time under Mr. Linsley's direction.

Q. What do you say is the length of that road? A. I think 10 miles 62 feet.

Q. What is the character of the surface of the ground over which it passes? A. The general surface is very good. It lays more in "lifts," so that you would have to make heavy work at one part to get to another portion where it would be lighter. That is the case when you

leave the river, where the ground rises high and it is necessary to make a heavy embankment.

Q. How much bridging is there on that Branch, according to your recollection? A. I think the Missisquoi bridge is a trifle over 200 feet long.

Q. There is another bridge, is there not? A. There is a road bridge on the main road going from here to Swanton, and there is a bridge across the creek.

Q. What is the length of the road bridge? A. I think about eighteen feet between the abutments.

Q. Any other bridges, that you remember? A. I think not any others.

Q. How about rock cutting on that road? A. I think there was some rock cutting a short distance this side, where it goes from Swanton. There is a heavy cutting there of limestone rock. The abutments of the bridge over the main road were made from the rock taken from that cutting.

Q. Is that all the rock cutting? A. I think it is, sir. There is not a great amount.

Q. Did you ever see the contract between Mr. Barnard and the construction agents for the construction of that road? A. No, sir.

Q. Taking into consideration the price of labor, material, &c., what do you think that road would cost to build it in 1863 or '64, at the time it was built; that is, the cost per mile? A. I hardly know. It would cost a good deal more then than it would now.

Q. What do you think it would cost now to build it per mile? A. Well, taking the ten miles through, I should say \$30,000 per mile, now.

Q. Do you think it would be worth that now? A. Well, sir, I should want that price, if I had to build it, to make it anything like a safe contract.

Q. How does the cost of that road compare, in your judgment, with other roads in Vermont, so far as you are acquainted? A. Well, so far as I am acquainted, I should think it would compare favorably with the other roads in Vermont.

Q. What do you mean by comparing favorably? A. Well, as to the expense of building.

Q. Do you mean that that ten miles would cost more or less than an average ten miles of Vermont roads? A. I should think it would cost a trifle less taking all the Vermont roads together. There are some Vermont roads that would cost a good deal more.

Q. What had you to do, Mr. Hale, with the construction of the M. & Vt. June R. R.? A. Well, in the beginning of the matter I was sent up there by Mr. Linsley to survey for the road. We went over the ground several times. I was there about four weeks surveying from Province Line to Swanton Line, and from Province Line beyond. I was here when the road was located, I had charge of the engineering business under Mr. Linsley. After he took the contract I rather assumed the management of the engineering business, independent of him.

Q. Did you continue in charge there in connection with Linsley otherwise until the road was completed? A. I think the road was

about completed when I came away from Canada. I came to St. Albans and staid here a time, but was more or less—perhaps a portion of every week—I was over that branch from Swanton Junction to Province Line.

Q. What is the character of the face of the country from Province Line to St. Johns over which the M. & Vt. J. Road passes? A. It is most of the way what we term surface road.

Q. What do you say about there being any cuts or fills, and if any to what amount? A. Well, there is more of what we call embankment than cuts, because it is mostly what we call a surface road, where the ground lies at a grade of,—say twenty or thirty feet to the mile. If the ground is pretty smooth we lay it just above the surface.

Q. And that is the kind of Road you built there? A. A good deal was, sir.

Q. Is there any rock cutting of any amount on the Road? A. I have no recollection of any, there may be some.

Q. What do you say with reference to the amount of bridging on that Road? A. There is one bridge across Pike river—I think that is about—well, I hardly know what—I think about 120 feet independent trestle work.

Q. Is that all the bridging there is of any length upon that Road? A. I don't think of any more now, there may be some of 15 or 20 feet.

Q. Did you know about the contract with Mr. Linsley made with that Railroad. Did you ever see that contract. A. No, sir. I never saw it.

Q. How did you supervise the construction of the Road without knowing what the contract was? A. I took charge of the engineering, but I never knew what the contract was between him and the other parties.

Q. Did you have any clerk? A. I don't know that I ever did.

Q. Well, now, what is your judgment Mr. Hale, as to the comparative cost of the ten miles this side of the Canada Line and the twenty miles the other side, per mile? A. Well, I might be different from any one else about that, but taking into consideration the materials that would have to be used, the nature of the ground and everything, I should hesitate which side to take as the average.

Q. You do not think there is fifty per cent difference in the cost of construction? A. Well, I don't know. In Canada there are but two or three points on the road—well there is one point sand I know—and one or two others gravel, the rest is blue hard clay, which is hard to work.

Q. Well, there is not much work to do through the hard clay is there? A. Well there is some: some of it has to be "ditched."

Q. What do you think it would cost per mile to build the line from the Province Line to St. Johns when it was built, that is to get it ready for the iron? A. Well, I should not now want to undertake to build it short of \$25,000 per mile, besides the iron.

Q. What would the iron cost? A. Well, I don't know what it was worth; that would depend upon the weight of the iron.

Q. Well, say 56 lbs.? A. It would take about \$90 00 per mile.

Q. Well, now putting it all together, what do you think would be the cost? A. Well, I think it would cost over \$30,000.

Q. You think it would cost about the same to construct as the road his side of the line? A. Well, pretty near. It is heavier work but it is work that I would like better to do; perhaps some contractors could not make the difference.

Q. Do you figure the price of iron the same upon that side that you do upon this? A. I don't know how it was figured there.

Q. Have you ever built any railroads? A. Yes, sir.

Q. As contractor? A. No, sir.

Q. You have now charge of this new railroad from Burlington, have you not? A. Yes sir.

Q. How does the surface of the ground over which that road passes compare with the ground over which the Swanton Branch passes? A. Taking it all together, that is the most favorable, I should think.

Q. You have made estimates of what that road would cost, have you not? A. Yes, sir.

Q. What do you estimate that would cost? A. I could not tell to a dollar, but my estimates run in the neighborhood of about \$25,000.

Q. Now, how does that compare with the Montreal & Vermont Junction? A. The character of the work in my opinion, has a great deal to do with it, whether it is sand, gravel or clay. If clay, you would have to dig and pick it up; the men cannot move more than four or five yards of that in a day and can work 25 yards of gravel.

Q. Do you know what became of the books and papers connected with the construction of the Swanton branch and M. & Vt. J. Road? A. No, sir; I don't.

Q. Do you know what has become of Mr. Kimball, the clerk? A. Only by report. He is at Portland, Oregon; his brother told me yesterday that he was there.

Q. Are there a good many culverts on this flat land where the water runs off? A. Well, in that French country there they have what they call—I forget the name now, but they are large drains constructed by the Government, running through the country to drain it. They are a great help to the land owners I think, and they have to contribute. These drains were rather troublesome, and it was very difficult to get one changed. If we was running longwise it was difficult for us to get across it. We might strike a point occasionally where the track would run along with the drain.

Q. And there was no other way for this water to go off except through these drains? A. That was the only way, sir. There is a large tract at St. Alexandre that we found difficult, they run almost from east to west—we were running pretty near north and had to go over them.

Q. Well, all the water on this flat land had to run into these streams or else into the lake? A. Yes, sir.

Q. And you had to construct ditches big enough to carry off this water? A. Yes, sir. One of the great troubles was that when we came upon these drains we had great difficulty in getting permission to change them.

Q. Well, right along on each side of the railroad it was ne for your own protection, as well as to prevent the flooding of thes —it was necessary for you to cut ditches? A. Yes, sir; we hac them and to put in a good many culverts.

Q. Well, that made that Road a good deal more expensive the water could have taken care of itself? A. Yes, sir; in that it is the hardest road I have ever seen to build—the land was so there was not any stone any where about that part.

Governor Smith re-called by Mr. DAVENPORT.

Q. Governor do you keep a cash book? A. No, sir; nev one in my life.

Q. And you have no book or paper in your possession from you can tell what you received for the Pullman Car Company stoc you sold it? A. No, sir. I have not the slightest idea. It slight premium—I could perhaps ascertain from Boston. I have impression it was one or two per cent.

Q. Does this Trust own any real estate in Canada—timber A. No, sir, not to my knowledge. The only real estate it own connection with the S., S. & C. Railroad.

Q. Do you mean by that the Government subsidy? A. Y and the grounds round the depot in Waterloo. I think there is outside real estate at Waterloo. Then there is the timber land by the tram road.

Q. Has the Trust got any evidence of title to the land gran the government to the S., S. & C. Road? A. I think the patents a I don't know.

Q. To whom were those patents issued? A. I think the issued primarily by the government to the Ives Mining Co., and the Mining Co. transferred them to the Trustees and Managers road.

Q. Will you produce for the inspection of the Masters patents? A. I will if they are here. My brother told me he to patents of the 7000 acres but I have never seen them.

Q. What is the character of the land embraced in the 7000 A. It is all timbered land and said to be of very superior quality.

Q. Where is it located in respect to the S., S. & C. Road Most of it is at the east end of the Tramroad, I have never been land but have had it pointed out to me.

Q. How far is it from the line of the road? A. The road right into a part of it.

Q. Has the Trust ever cut any wood or timber off these A. Not to my knowledge.

Q. Are the lands free from taxation or not? A. I unde them to be free. I am not aware of any tax on them.

Q. Are you the owner of any timber land on the line of the Vt. J. Road? A. No, sir; am not.

Q. Are you on the line of the S., S. & C. Road? A. I a sir.

Q. Have you ever been? A. I was some years ago. We were troubled to get wood at St. Armand and Mr. Babcock came to me and said there was a small lot of land for sale for which the owner would take so much if he could get his pay down. Mr. Babcock suggested I should buy it. I did so. The wood was cut and sold to the road. I had nothing to do with cutting it. I sent some one there to see to it.

Q. Who supervised it? A. Mr. Babcock measured the wood and put it in. That is the only land I ever owned and that I bought within the last few years.

Q. Was that bought on your private account, or on account of the Trust? A. On my private account.

Q. Do you remember what you were paid for that land? A. I cannot remember just now.

Q. Can you approximate it? A. I have the impression it was \$2,500 or \$3,000.

Q. Can you give the name of the man of whom you bought it? A. I cannot do that now—I can find out. I never saw the lot in my life to this day. I cannot tell where it lies; it is in the township of St. Armand.

Q. What contracts are now in existence or ever have been in existence between the Vt. & Canada and the Vt. Central R. Rs., Receivers and Managers and B. P. Cheney or the Express Co.s in which he is interested? A. I don't know if there ever was any written contract existed; when we came into the Trust Mr. Cheney had the contract and was running the the express as the railroads were built, and as this road was opened by sections he had a contract made under Gov. Payne when he was President of this road to run the express business over this road. From time to time the price has been advanced to him; Mr. Merrill had most of the figuring about it.

Q. What price was paid by B. P. Cheney or what was received from 1861 to 1873 for the express business? A. I will have a full statement made out.

Q. Have you in your possession the certificates of the stock which you took in the Northern Transportation Co. of Ohio? A. I think it is here. I will have it looked up.

Q. Does the \$50,000 which you testified about when on the stand before cover all the monies of the Trust that have been put into the Northern Transportation Co. and not been paid back? A. It covers all that was ever contributed prior to the contract which has been referred to, called the Boat Contract.

Q. It was all the contribution made prior to that; and this \$50,000 subscription to stock was an investment before your line and the other roads entered into this aggregate contract with the Company? A. Yes, sir.

Q. Since the time that this contract was entered into has the Trust made any investments of its funds in the property of the Northern Transportation Co.; or has it loaned any money? A. I cannot answer that question directly, for I don't think there has been any direct investment. According to the terms of that contract, the business coming from the boats over the lines of roads—each road contributed, according

to the business which it received, a certain amount towards the sinking fund, which was to be for the stock of that Company, which was bought through that source; and in that way there has been a proportion paid.

Q. How large a proportion has been made, and where upon the books is the amount of that proportion to be found? A. I cannot tell the amount of our proportion. The whole amount contributed to a sinking fund by the lower roads and ourselves jointly amounts to something over \$200,000. What the proportion of this road is I don't know. That is not paid over by us. I think that account will be found in the settlements with the other roads. The money is primarily paid by the Lowell Road—they make the contribution.

Q. Is that in the form of a loan or a contribution? A. Well, is to constitute a loan, I presume; I don't know, exactly. When the sinking fund was fully paid up, the Ogdensburg corporation and the roads between Ogdensburg and Boston agreed upon General Stark and myself as Trustees, under what is called the "boat contract." The Trustees were to hold the stock of that Company, which was purchased and should be paid for by and out of this sinking fund, so that when the sinking fund reaches its maximum the Trustees would own these boats for the benefit of the line of roads from Ogdensburg to Boston.

Q. According to your best knowledge and belief, Governor, how much of the \$200,000 which the line has already loaned to this sinking fund comes from the roads embraced by this Trust; that is, the Vermont Central and the Vt. & Canada? A. Well, I should think more than half. I cannot tell you the proportion because we have a very queer way of settling our accounts which we cannot change. Primarily the division is made with the lower roads, leaving out the Ogdensburg Road. Then another division is made in which the Ogdensburg Road is included, so that the proportion of the Ogdensburg Road is made up independent and by itself. I do not remember now what their proportion was.

Q. Well, who can tell us how much of the Trust money has gone into that fund? A. Well, I don't know how you can ascertain that.

Q. Is the paper which I hold in my hand a certificate of stock issued for the \$50,000 invested in the N. T. Co.? (showing paper to witness.) A. Yes, sir.

Q. Was that money paid at the date of the certificate? A. No, sir. That certificate was made out at the date of the payment of the last assessment. It was called for by assessments. This is dated August 17th 1869. I think we made the subscription in the January before that. I know we paid the instalments as they were called for and when the last was paid they issued that certificate. That is my recollection.

"This is a certificate that the Trustees and Managers of the Vermont Central and Vermont & Canada Railroads are entitled to 500 shares capital stock of the Northern Transportation Co., of Ohio; shares, \$100 each. Dated, Cleveland, Ohio, August 17th, 1869."

Q. Will you take measures, Governor, to inform the Masters and amount of Trust funds that is invested in this concern.

(Statement to be furnished.)

Q. Does that comprise all the Trust funds that have gone into that enterprise? A. So far as I understand it, it does sir.

Q. In whose custody is this sinking fund? A. I think the president of the Boston & Lowell Railroad, and of the O. & L. C. Railroad are the Trustees.

Q. Do they have the custody of it and investment of it? A. Yes, sir.

Q. Well, now, what is to be done with that sinking fund? A. I could not undertake to tell you that: the contract shows for itself.

Q. What was done with the funds? I want to find if there was anything there that this Trust will never get back. A. Well, I cannot tell you, the contract shows how they are required to invest it.

Q. Don't you understand, Governor, that the amount you have put into that sinking fund is a loss to the Trust? A. No, sir. I will tell you how I think it is invested:—The Ogdensburg Road loaned to the Trustees under that contract \$600,000 with which to purchase the stock—they issued their bonds to the amount of \$600,000, raised money on them and with the money so raised stock and property was purchased.

Q. Boats? A. Yes, sir, and all the real estate and property; these bonds run for 20 years. The sinking fund is to retire these bonds and it is invested in these bonds to retire them or else invested in other securities which will be equal to that, so that if they cannot buy their bonds without paying too high a premium they invest in Government bonds to hold in place of their bonds. If we had it all paid up that would then give the line of roads from Boston ownership of the boats and real estate, wharves, warehouses, &c., in proportion to the business each road received. The N. T. Boats were built expressly to run to this line and were the only boats adapted to the Welland Canal. When the Northern Transportation Co. went into bankruptcy and the boats were liable to be sold, parties in Montreal wanted to buy the boats and form a line to run through from the West with freight to be exported via Allan's Line of Ocean Steamers from Montreal—such freight as grain, flour, &c. The freight would then have gone from Montreal instead of going over our line and being shipped from Boston. Mr. Chamberlain, President of the N. T. Co., knowing that this Montreal party wanted to get the boats, in consideration of the relationship that existed between his company and the line to Boston, came to us at our line meeting and represented the facts of the case. The question then was whether we should allow this line of boats to pass away from us and form an opposition line or whether we should make an effort to keep it. We submitted the matter to counsel as to our legal right to take the line of boats. The Ogdensburg Road was very anxious we should keep the line of boats, as they added to the value of that road, and they, that is the Ogdensburg Road, proposed to loan to us \$600,000, (which would relieve the boats from bankruptcy) if we would at some time or other pay back the amount. The question was how we could legally make the contribution. Counsel decided that while we had no power to purchase this stock out of our funds we had a right to make a business contract with them by which we substantially agree to take their business, and make a contribution out of the business which their line of boats

would bring to us. It was simply a question of the salvation of our business—whether we would hold the business or let the boats go and become an opposition line. We finally came to that contract.

Q. And attempted to do indirectly what counsel said could not be done directly? A. No, sir; the contract was made so that we might do the thing legally. The Portland & Ogdensburg R. R. agreed to allow 30 per cent. of their gross receipts on business from the boats, as a bonus on their business; in the same way as the Northern is paying us ten per cent. upon our business—they would have no right to come here and buy our road; but they have a right, if they choose, to pay us ten per cent. on all business coming from our line on to theirs, out of their share, and it was on this principle that we arranged with the boat business.

Q. Assuming it to be true that you have paid \$100,000 into this sinking fund, all of that amount has been taken out of the earnings of the line, has it not? A. It has been paid out of the earnings of the business coming from the boats.

Q. And to the extent of \$100,000, if that is the amount your Trust has contributed, that has come out of the business transacted upon the Vt. & Canada R. R.? A. Yes, sir.

Q. When did you make your last payment? A. Last month, I think.

Q. What was the amount of that payment? A. \$45,000.

Q. And how often did you make a payment of \$45,000? A. Semi-annually.

Q. \$90,000 per year? A. Yes, sir. The sinking fund, of course, grows less.

Q. When the \$600,000 loaned by the Ogdensburg Road, and interest, is all provided for by this sinking fund, then this line will be the owner of these boats and of all the property connected with them. A. Yes, sir.

Q. Will not the mortgage in the property be still outstanding? A. No, sir; the sinking fund provides for that also.

Q. What is the amount of the mortgage on the property besides that? A. \$400,000; the sinking fund covers that.

Q. And the proportion this Trust will have to pay into that sinking fund will be more than \$500,000, will it not? A. That depends upon how they buy the bonds.

Q. Well, your Trust has got to contribute more than half of the whole million because you are more than half the whole line? A. Well, yes, it would contribute more than half if the bonds are all bought at par, and just so much less if the bonds are bought at less than par.

Q. And for all that money you will have to show for it—these boats if they are not all burned or worn out? A. They are insured, if they get burned.

Q. How many boats were there when this sinking fund was began? A. 21 or 22.

Q. How many are there now? A. 17. Two have been lost and one or two burned, which have been insured.

Q. Did that transaction have the approval of Pinkerton and Drury? A. Yes, sir.

Q Did they approve of it in writing? A. I think they did.

Q Did it also have the approval of the Court of Chancery, Franklin County? A. Yes, sir.

Q Can you turn to the decree by which they approved of it? A. Can.

Q What would have been the effect upon the business if you had not made this contract with the N. T. Co.? A. We should have lost it all, sir. The line would have been broken up, and the boats would have been run to the Allan steamers, and freight would have thus been diverted from this road. The grain, flour, etc., would have been shipped from Montreal instead of from Boston.

Q Are those boats running this summer? A. No, sir, not running yet; they are going into Line now.

[Mr. Davenport puts into the case:—The order, and the proceedings resulting in that order, which are reported upon pages 289 to 293, *Vt. & Canada R. R. vs. Vt. Central R. R.*, Chancellors Decrees and Orders, No. 1, marked "Exhibit 44."]

Q Governor Smith, is this order from the Chancellor the only one in reference to the purchase of the N. T. Co.'s stock, and the investment in the sinking fund? A. I think it is, sir. I don't remember any other orders.

Q Was not the purchase of \$50,000 stock before this order? A. Yes, sir. That order has nothing to do with the purchase of \$50,000 of stock.

Q Is it not true that the N. T. Co. has become a serious burden financially and that you lose by running those boats? A. Yes, sir; I suppose it is.

Q I understood you to say that it was for the benefit of the Vermont Central Railroad and Vermont & Canada Railroad that these boats should be kept upon the Line connecting with you, in order that you might have the business brought by those boats through the Welland Canal; so that the business was a source of profit directly to the Vermont Central and Vermont & Canada? A. Yes, sir, we deemed it necessary for that purpose; and it was very largely to the profit of those roads at that time.

Q Governor, what is the length of the Vermont Central Line from Chicago to Boston—taking the Water Line first. A. My impression is 1400. I cannot give it you exactly.

Q What is the distance via your all-rail line? A. 1178 miles.

Q What competing Lines are there with yours for the Boston business—that is rail Lines? A. The Baltimore & Ohio, Pennsylvania Central, New York and Erie, New York Central, and Grand Trunk Road, in connection with the B. & M. Railroad and the Canal Line by the way of Buffalo.

Q Is it not true, Governor, that your all rail Line is more than a hundred miles longer than the Erie or Pennsylvania and New York Central? A. It is longer.

Q Is not the Baltimore & Ohio the shortest Line? A. No, sir. I think that is the longest from Boston.

Q. The competition for Western Freight is now, and has been for years very active, has it not? A. Yes, sir; it has always been active, but since 1873 it has been mostly so.

Q. The various Lines that you mentioned have all been striving for Western Freight, have they not? A. Yes, sir.

Q. Is it not true that these Lines have carried their freight from Chicago to Boston at very small margin of profits? A. Yes, sir; for the last two years.

Q. Haven't they before that? A. Not so much as they have since; not so low but what it would leave to all of us a very fair margin of profit. You must please understand that our Boston business is a comparatively small proportion of the business which we sought to do, and did do by our Line. There is what we call our interior New England trade, which is probably three times as large as the Boston trade—we hold that New England trade almost exclusively, and shall continue to hold it as long as we hold the combination of Railroads that we now do. It gives us exclusive control of the New England manufacturing district excepting the western and southern parts of Massachusetts and Connecticut.

Q. It gave you no control over the B. & A. and N. Y. C. route did it? A. Yes, sir, it did for the interior New England trade, simply because the lines controlling that trade worked in harmony with us, and would not fellowship with other lines in the same method that they did with us.

Q. What do you understand the distance to be between Chicago and Boston by the N. Y. C. and B. & A. Railroad route? A. In round numbers it is a trifle over or under 1000 miles.

Q. Harris says it is 1037, are you satisfied that is about correct? A. I should think it is nearly correct, sir.

Q. Now, in this connection, Governor, let me inquire of you whether the question has not been mooted among your Directors—that is of the C. Vt. Railroad who are now Receivers—as to whether you have not been carrying this western freight at a large loss, and has not Mr. Millis been set to work to ascertain what compensation your Trust gets per mile for hauling a ton of this through freight? A. Yes, sir, it has been a serious question with us for a year past as to whether we should not get out of it entirely.

Q. Was not the result of Mr. Millis' investigation that he found you were hauling freight over this road for $4\frac{1}{2}$ mills per ton per mile after deducting car service, which you had to pay to the V. I. & C. Co. and National Car Co.? A. No, sir, Gov. Page is mistaken, he has figured it in that basis. I satisfied him upon that point.

Q. What do you say the Trust gets per mile for the transportation of a ton of through freight? A. I think the lowest, if I have the figures correct, was 7 mills per ton per mile. I think that was the lowest rate. Then I went into a computation with the Directors of the lower roads to see whether we should continue the business at that rate. We

found that, taking 24 cars to the train, we would receive from St. Johns to White River Junction,	\$300 96
From that would have to come car service,	85 26
And use of the power, as made up by Mr. Foss,	52 16
Amounting to	137 42

Which would leave on that basis \$163 54

for hauling the train from St. Johns to White River Junction. That did not include use of track nor general office expenses. I did not carry the computation far enough for our Board had to separate. The question was whether we should give up this through business and let all our traffic be diverted into other channels or whether we should struggle on through this period of depression and hope for a revival bye and bye. For instance, we have what is know as the "Live Hog Trade," in which we have a regular line of customers who always ship this way, we have also other kinds of freight such as cattle and grain, the shippers of which send regularly over our line. Now the question was whether we should throw up that business—if we did it would all get diverted and scattered among other lines, and in the event of business getting better, and our wishing to renew our through business we should find very great trouble in getting our connections together, indeed it would be doubtful if we succeeded in getting it together at all. We determined that we would fight though the hard times and see if business would not get better.

Q. You think that your road with 102 miles more and only a single track could compete successfully with a road 100 miles shorter and having four tracks half the distance and the other half two tracks? A. As I have said we had our particular points which could only be reached by our line.

Q. What is the average rate per ton per mile which the Trust receives for Transportation of local freight? A. I never figured it—I cannot tell.

Q. Are not other railroad corporations in the habit of furnishing statements from year to year of the number of miles and cost of transportation, &c.? A. Not for local business; I could give it on through, not on local business.

Q. Governor, since you have been connected with this Receivership has there been a fund set apart from the general earnings of the Road called the "Secret Service Fund?" A. There has, sir.

Q. When did you commence setting apart that fund? A. I do not remember, sir. It has not been set apart from the earnings of the Road. I think that fund commenced in 1869. The first charge by this book here seems to be June, 1869.

Q. What is the first item? A. "Open packages—\$732 38."

Q. Is it not "open packages on pay roll account?" A. Yes, sir.

Q. Was not that taken from the general earnings and the bills left open upon the pay roll account? A. My impression is that these were packages which had been accumulating for a series of years and included amounts of pay left, where the men had run away, and the money was done up in packages.

Q. Was there not a book later back than the one you have now before you? A. Not that I know of.

Q. Where was the amount kept previous to that time? A. I don't know—it was all kept by the Treasurer.

Q. Between June 1869 and April 1872, what was the whole amount received on account of secret service? A. \$16,997.56, of which \$12,065.64 was returned to the Treasurer, leaving \$4,931.92.

Q. Do you say that was all there was disbursed? A. That was all belonging to the Trust, sir.

Q. Well, does that include all that was entered there upon the book? What is the whole amount upon the book? A. The whole amount of entries upon the book is a trifle over \$30,000.

Q. And the balance did not come from any funds belonging to the Trust? A. No, sir.

Q. What source did it come from? A. Well, when the system of "bonding" was first adopted by the Government for the convenience of the customers of the Road, there was established at Rouses Point, I think, a Mr. Myers, who was connected with the Montreal & Champlain Road, a system for passing shippers' goods through the Customs routine. The consignee of goods was required to attend to this business; but Mr. Myers got quite a connection among shippers, and attended to their goods for them, this saved them sending a man specially to look after the freight, and Mr. Myers would charge a small commission for his trouble. When St. Albans was constituted a port of entry, this system of bonding was removed to this place, and Mr. Myers, who was agent at Rouses Point, came here and inaugurated the system here with our clerks. He disclosed to Mr. Merrill his plan of operation and explained how it had been done. The clerks here then did this entering at the Customs, which of course entailed additional labor upon them. Now it was against our rule to allow any clerk to receive commissions from outside parties, and we decided that the amount paid for these services should not be considered as a perquisite of the clerks. At that time the necessity for a fund that should be used at the discretion of the Managers arose and directed Mr. Merrill to hand the amounts received for bonding freight into the Treasurer to constitute a "Special Service Fund." It was then that this fund received the name "Secret Service Fund," from Mr. Putnam and the clerks, which was a title never bestowed upon the fund by the Managers. These amounts were thus received and were passed over to the Treasurer until they accumulated to something like \$15,000. All the amount of the Trust fund that was put into the S. S. Fund were odd amounts and ends, with the exception of the amount arising from the sales of seats in the palace cars and some rent accounts outside the building.

Q. But were not the clerks who did this bonding employed and paid by the Trust for their services? A. Well, we imposed so much additional labor upon them.

Q. There is an amount here—George G. Hunt, \$230—have you any voucher for that? A. I don't know whether I gave you one before or not,—he had the money.

Q. Do you know what he did with the money? A. I think I explained to you what he did with it.

Q. Mr. Hunt claimed that he received it on account of an unsettled account due to him from the Trust.

(The testimony of Mr. Hunt was read from the report of the Investigating Committee.)

Q. Can you tell any reason why Mr. Hunt should have received that money from this special fund instead of receiving it from the general account? A. I cannot. I don't remember the circumstances now; It is out of my mind.

Q. The next item is an amount paid to B. H. Smalley for which there is or was his voucher? A. Yes, sir.

Q. Now including the amount paid to him from the general fund the total is \$1000 for what purpose did B. H. Smalley receive \$1000? A. As counsel for the company.

Q. In what suit? A. In no suit.

Q. With reference to what matter? A. Confidential matters in connection with the Trust which I consulted him about, and which were for the benefit of the Trust.

Q. Was he then in the practice of the profession of law? A. He was not.

Q. Had he been in the practice of that profession? A. He had been but not extensively. He acted as adviser then because he was very familiar with our affairs.

Q. Were they such matters that you did not deem it safe to rely upon the advice of Mr. Fifield? A. They were matters that Mr. Smalley knew more about.

Q. Matters that Mr. Underwood, Judge Poland, Mr. Fifield or Judge Redfield could not advise you about? A. They were matters about which Smalley was quite familiar.

Q. Were they matters about which you consulted Mr. Clark? A. I think I did and with Mr. Brainerd, also, but I am not positive.

Q. Had not Mr. Brainerd been dead several years when you employed Mr. Smalley in 1869 or 1870? A. Mr. Brainerd died in 1870, I think. I don't know positively whether I consulted with Mr. Brainerd. I think I did. I think Mr. Brainerd was present at one of the consultations with Smalley.

Q. Did Mr. Smalley perform any other service except to give his advice? A. No, sir, simply gave advice.

Q. How many consultations did you have with him? A. I don't know; quite a number.

Q. At his office in Swanton or here? A. Here in this office.

Q. Was it some matter in which the Trust was interested? A. Well, I had no personal interest in it.

Q. Why are you unwilling to state what it was? A. Because it was a confidential matter.

Q. Was it the matter of the construction of the Lamoille Valley R. R.? A. No, sir, it was not.

Q. Did you not employ him and pay him to use his efforts to defeat a suit brought in the name of Judge Aldis and others, in the matter of issuing bonds by the town of Swanton in the Lamoille Valley R. R.?

A. No, sir, I never employed him for that purpose.

Q. And it was not in connection with his services in that direction that you paid him this money out of the Trust? A. No, sir, quite independent of that.

Q. Do you decline to state what you paid the money for? A. I do, further than I have stated; that the matter upon which I consulted him was one in which the Trust alone were interested.

Q. The next item I call attention to is "\$3,387 21, drawing-room car," charged to V. & C. Why was that paid out of the secret service fund? A. There had been collections made for sale of seats and that was simply to return it to the Treasurer.

Q. Well, that is the fact, is it, that the amount was paid back into the Treasury? A. Yes, sir, to the credit of drawing-room car.

Q. How does the entry stand? A. "July 22d,—from the drawing-room car for June, \$400; July, \$1000. On the credit side it is—by drawing-room car, \$3,387 21.

Q. What about the next item, \$3,479? A. That was received by Mr. Putnam, Jan. 1st, 1870.

Q. What was done with it? A. Mr. Putnam paid the amount back to Mr. Williams. He gave his receipt for it when he drew it.

Q. Dec. 26th, \$1,200—to paid Jo. D. Hatch and B. H. S.—\$1,000 was paid to Hatch, was it not? A. Yes, sir.

Q. Was not that amount expended by Jo D. Hatch, as shown by his voucher, for expenses at Montpelier, session 1869, in resisting adverse legislation and resisting the application for a parallel line from Burlington to Canada, &c.? A. Well, Mr. Hatch explained the item, I think. I know I gave him the money and took his receipt. That is his account for it, I suppose.

Q. There is another item of \$350 more, Jan. 5th, Jo D. Hatch; Mr. Hatch could not explain to the Masters what that was for, can you tell? A. No, sir; I do not remember. It may be that I gave him that amount to pay his expenses in some examinations which I sent him out to make. I cannot tell now, I don't remember distinctly.

Q. The next item I call your attention to is, "W. C. Smith \$200," for which there is a voucher; what is that for? A. That is explained already in the book. I presume he had a right to draw the money from this fund. I gave it to him and took his receipt.

Q. Here is an entry, "\$500, George G. Hunt," which you understood to be for services which he performed. A. Well, I cannot recollect now what it was for.

Q. The next item here is \$12,821 41, received by you. A. Yes, sir, and \$2,000 more with it—the total amount is \$14,822 08.

Q. What did you do with that amount? A. Expended it for the Trust with the exception of a small balance—about \$2,000, I think which is in my hands to be returned to the Trust.

Q. What purpose connected with the Trust did you expend it for? A. There were a good many cases arising on the road where it was absolutely necessary, in the judgement of the Managers, to have a fund provided which should be entrusted to them. There were detective services, &c., which we considered there should be a special fund set apart to meet such expenses. There are some detectives who will, up

receipt of money for their services give a voucher for it, but there is a set of detectives who would never give vouchers because they would not put themselves in any position where they might hereafter be discovered. With reference to this last class of detectives, we could never have secured their services if we had insisted upon requiring them to give vouchers. There was one such case involving \$20,000 to this Trust which took nearly two years to find out. In this case there were persons willing to engage and find out the facts of the case for us but who would not have their names associated with the matter. The case was found out and saved to the road, and the expenses of ferreting out the matter I paid out of this Fund. There was also another case involving \$10,000, that was a claim which was supported and sustained with an apparent degree of sincerity, where I was satisfied it was fraudulent. Lawyers were employed and it was considered a strong case. I took every means to unravel the matter, and the parties who investigated it were so successful in their efforts as to discover the fraud, the party himself confessed the whole matter to me in this very room. It was for services such as these that the fund was established and this money was invested wholly for the benefit of the Trust.

Q. Will you tell me the name of the party who made this unfounded claim and confessed to you in this room? A. No, sir. I could not do it without implicating others.

Q. Why not without implicating others? A. Simply because I could not do it without the fact being then known to whom, I had paid the money for such services as I spoke of. I decline to state anything more than I have.

Q. Who was it brought this \$20,000 claim against the Trust? A. I decline to say.

Q. Does he reside in this State? A. No, sir.

Q. In what State did he reside? A. I decline to tell you.

Q. What was the nature of his claim? A. A claim for injury.

Q. For personal injury? A. Yes, sir.

Q. Happening upon one of your passenger trains? A. Well, it was for a personal injury that he had the claim.

Q. Do you mean an injury to his person? A. Yes, sir; I do.

Q. Was this \$10,000 claim an injury to the person? A. Yes, sir.

Q. Was it in connection with these two cases that you expended this \$14,000? A. No, sir; not all of it. I have had other cases.

Q. Was there any reason why you could not put Jo D. Hatch on the track of these villains? A. He could not have found out anything, he was known to be an agent of ours; I might as well have gone myself.

Q. Have you in your possession any papers connected with these matters, which you are willing to show to the Masters or to counsel here, and not have the matter on the reporter's minutes? A. No, sir. I decline to state anything. I have said the amounts expended by me were entirely for the interest of the Trust, and if the Masters think my statement insufficient, they may disallow the amount and I can refund the money.

Q. Do you think it is proper of you to keep from the knowledge of the officers of the Court what you have done with the money of the Trust? A. Yes, sir; under the circumstances, I do; and if the Mass are not satisfied with my explanation I would rather pay the money than violate my honor. Every dollar of that money which I expended was expended in a legitimate and proper way for the protection of the interests of the Trust in disposing of the fraudulent claims and practices which were sought to be enforced against the Trust. There was not a dollar used at the Legislature directly or indirectly, nor with any other branch of the Government. As I have said, every cent was legitimately used for the protection of the interests of the Trust, and I saved the Trust money by the use I made of the funds.

Q. What became of Mr. Williams' note of \$3,975? A. That was passed over to the Treasurer, who holds it yet.

Q. One hundred dollars of this S. S. Fund seems to have been paid to Mr. George Ballard of Fairfax? A. Yes, sir; that was paid at the request of Mr. Bradley Barlow—he said I ought to retain Mr. Ballard that he could do us a great deal of service in the matter of this application for parallel charter in which the town of Georgia had gone heartily. Mr. Barlow thought Ballard could correct the public sentiment. I gave the money to Barlow, he says he has no recollection of receiving it. Mr. Ballard said he had no remembrance of receiving the money but he did not deny receiving it when he saw his receipt.

Q. Do you know whether that \$100 was paid to Mr. Ballard before his election to the Legislature? A. I should think not, sir. I think Mr. Ballard explained the matter when on the stand in the investigation.

Mr. Davenport put in the following papers:—

Statement of interest paid Joseph Clark from August, 1855, to July 1, 1873; marked "Exhibit 45."

Statement of interest paid to J. Gregory Smith up to July 1st, 1873, marked "Exhibit 46."

Statement of general account on ledger with Joseph Clark; marked "Exhibit 47."

Statement of interest paid J. M. Pinkerton; marked "Exhibit 48."

Statement of Spencer Vilas' account to July 1st, 1873; marked "Exhibit 49."

Statement of amount received for express service on the Trust roads up to July, 1873, marked "Exhibit 50."

Statement of express service on the Sullivan R. R. and M. & Junction to July 1st, 1873, marked "Exhibit 51."

Statement of interest paid B. P. Cheney to July 1st, 1873, marked "Exhibit 52."

Statement of interest paid L. Millis to July, 1873, marked "Exhibit 53."

[Court then adjourned until Thursday, 12th inst.]

THURSDAY, AUGUST 12TH—MORNING SESSION.

Court assembled at 9 A. M.

Governor Smith wished to explain with regard to one of his answers on the previous day.

"I wish to make a correction in an answer I made yesterday. Mr. Davenport asked me in reference to through freight, if we had not carried it as low as $4\frac{1}{2}$ mills per ton per mile. My reply was, no! but my mind was upon our own road, the Vt. Central. It did not occur to me until I got home last night that freights had passed over the Rutland Road, between Rutland and Bellows Falls, as low as $4\frac{1}{2}$ mills. It was freight that came from what is called the Schenectady Line. When Mr. Millis reported the matter to me—that we were carrying freights so low—I at once took measures to stop it, and it resulted in an order from this road to the D. & H. C. Co. that we would receive no freights at that rate. The difficulty was in the division between what was called the Canal Line and the Elevator at Schenectady, and the contract which they had with the D. & H. C. Co., which, prior to our taking the Rutland Road, was recognized by Governor Page. Mr. Dixon, of the D. & H. C. Co., insisted upon this contract being carried out, but I urged that we must have a different division, and requested 25 per cent. of the amount received for carrying the freight from Schenectady. The matter was compromised and we accepted $22\frac{1}{2}$ per cent. A good deal of the freight was lost, and that is one of the complaints of the Rutland R. R., that we have diverted freight from their line. The lowest average we have had is 9½ mills, that has been upon through freight via the G. T. R.; but, as I have stated, there has been freight on the road of the Schenectady which has been carried for $4\frac{1}{2}$ mills.

Q. (By Judge Poland.) Well, that was on a contract which existed before the Rutland was leased by this road? A. Yes, sir; and it was continued until my attention was called to the fact that we were carrying the freight at a loss. As far as this road is concerned, the amount for February, this year, our average which was then the lowest was 1³/₁₀₀c per ton per mile.

Mr. Davenport put in statement of the amount received by the V. I. & C. Co. of the Vt. Central and Vt. & Canada R. Rs. for car service between May, 1871, and July, 1873, marked "Exhibit 54." Mr. Davenport also offers in evidence voucher 6,012, signed by B. H. Smalley, which reads as follows:

BURLINGTON, Oct. 12th, 1861.

Received of the Trustees of the First Mortgage Bonds, &c., &c., \$1000 to account for to the Vt. & C. R. R.

B. H. SMALLEY.

Charged after Jan., 1864, to the Vt. & Canada.

Mr. Walker offered in evidence voucher 1698, Journal I, purporting to be a correction of differences between the Boston and St. Albans Ledger Oct. 8th, 1863, amounting to \$205,666 53c giving certain items of correction, and stating further as follows: "notes payable. To interest when the entry of May, 1872, was made to make note book and ledger agree. The Boston ledger was taken as a basis for figuring and there was then a discrepancy between the Boston and St. Albans Ledgers of \$9,700 68.

Mr. Williams re-called by Mr. WALKER.

Q. In the accounts between the lessees of the Sullivan Railroad and the Trust during the time you were treasurer, was interest allowed to the lessees upon the amounts in the hands of the Trust? A. Yes, sir; generally.

Q. On monthly balances? A. No, sir; on the average, for the Sullivan, for each six months; my impression is that once or twice no interest was allowed.

Q. Do these items of interest appear in the statements furnished of the receipts from the Sullivan Road? A. I presume they appear in the statement of interest paid Clark and Smith.

Q. Can you tell by examining this statement of interest paid J. Gregory Smith, whether the interest of the payments upon the profits of the Sullivan Road are there shown? A. I could not without going to the books and checking it. I have no doubt but what it appears as far as it was paid.

Q. It would be possible to ascertain, would it not, from the books the amount of such interest? A. By going through the vouchers probably. I don't remember how the interest was made up; it may be included in the gross amount of some of those items.

Q. And the statement furnished of the earnings and expenses of Sullivan Road (Exhibit 14) you think does not include those interests? A. I cannot tell without examining the books.

Mr. Walker:—I wan't that point determined, and the fact ascertained, and the amount of that interest added to this statement, if it has been omitted.

Q. I notice upon the same statement (Exhibit 14) purporting to give the proportion of the operating expenses to the gross earnings during the entire 11 years. The expenses as charged in the books of the Sullivan Road included the total expenses on that road, that is what is called the extraordinary, as well as the ordinary expenses of the road?

A. Yes, sir; it includes everything.

Q. So that the operating expenses upon this exhibit does not mean exactly the same as it does in regard to the exhibits that have been filed showing simply the earnings and operating expenses? A. I suppose it does. I think all expenses were charged into the operating expense account on both the Central and Sullivan books.

Q. There was no construction account upon the Central books, except so far as charges were made to the Vt. & C. Road which were afterwards represented by issue of stock to the Vt. & C. Road? A. There was no construction account under that name.

Q. And you think that all the expenses of whatever nature are included in the statement? A. Yes, sir.

Q. (By Judge Poland.) Was any interest allowed to Governor Smith and the other managers, on the money received on the Sullivan Road for any longer period of time than the Trust had it? A. No, sir.

Q. Upon ledger II. 396 I find an item of notes receivable, being a note to the Welden Hotel \$527.22. Have you any knowledge as to what that note is—whether it has ever been paid? A. Nothing except as appears from the books. It occurred after I left here.

Q. (By Mr. Walker.) I desire to call attention to that note and also to the account against the Welden Hotel, Ledger I, page 405, \$112.09, dated May 1872; there is also on Journal II, page 384, an entry as follows: Welden Hotel Company to sundries car shop bill lumber \$427.13, shop stock, \$48.85, with interest \$51.24, total, \$527.22. There is a further item on page 396, Ledger I, showing the note given to the Trust by J. Gregory Smith for \$10,000. Have you examined the books this morning and can you tell what that transaction is, Mr. Williams? A. A note given to the Woodstock Railroad or rather, a note of the Woodstock Railroad given to the Trust.

Q. Was that for a loan? A. Yes, sir.

Q. Which was afterwards repaid and the interest paid on the note. That is distinct from the \$6,000 which stands against the Woodstock Railroad? A. Yes, sir; the ten thousand dollars have been paid.

Q. Do you remember the transaction whereby the Pacific Railroad became indebted to the Trust for a certain amount. There is an item charged on the books to the Northern Pacific Railroad and afterwards charged to Governor Smith, it consisted of monies drawn by the Governor from the Trust and carried in the form of a cash memorandum for several years and was finally charged against him in 1872 or '73, what do you know of that transaction? A. It was money advanced on drafts drawn against Governor Smith for sums paid by his direction.

Q. They were carried in the form of cash memorandums draw for several years before being charged? A. Yes, sir; for time.

Mr. Walker:—I put in as evidence the entry from Journal 121, under date November 1872, being a charge made to J. G. Smith, transferred from the amount standing to the debit of the Northern Pacific Railroad account—\$22,163.01 with interest from the 1st of November 1871 to 1st of November 1872 at 8 per cent.—1,773.04, adding to a total of \$23,936.05.

Q. I want to know if interest was paid upon that advanced to the 1st of November, 1871? A. No, sir.

Q. And it has never been charged that you know of? A. My knowledge, sir.

Q. Do you remember how long these drafts were carried as items in the draw? A. I could not tell, sir.

Q. Was it from 1865 or '66? A. I don't know, sir: I have no means of knowing.

Q. What became of these drafts? A. They were turned over to the Governor.

Gov. Smith:—The books of the Trust will not show the date when the money was paid out.

Judge Poland:—I would like to have Gov. Smith make his statement in connection with this matter.

Gov. Smith:—During the early part of my connection with the Northern Pacific Railroad, some drafts were placed in Mr. Williams' hands to collect; the Trust was at the same time indebted to me on notes I held against them. I was absent from home quite a while while absent, drafts would come against me as President of the Northern Pacific R. R., that was before that road was quite organized and commenced to work. While I was away Mr. Williams would write or telegraph "A draft has come here against you for so much, shall I pay it," and I would reply, "Yes;" he would then keep the draft as a cash memorandum. Mr. Williams closed up his account as treasurer, both he and I over this matter, and it lay there, and afterwards my attention was called to it and I said to the treasurer's clerk that this money should have been charged up to me, and I instructed him to charge it with the drafts against me. I supposed they then made up the interest account to the date of the drafts but it seemed they only charged it from the date of some memorandum of Mr. Williams. My attention was never called to it until a very short time ago, and then I saw there was a difference in the interest with the lapse of time between the moment when the money was paid and the time when they charged the interest; that I will furnish—it should be charged to me.

Q. (By Judge Poland.) You gave no direction in regard to the computation of interest? A. No, sir, not at all.

Q. (By Mr. Safford.) The interest appears to be computed to November, 1871; now there should be added interest from the date of payment by Mr. Williams, should there not, Governor? A. Yes, sir; that should be added.

Q. (By Mr. Walker.) Mr. Williams, will you now look at Ledger H, pp. 146 and 277, and Ledger I, page 86, containing account against the Missisquoi Road, and state whether or not that account contains items of cash advanced, used in the construction of that Road? A. It contains items of cash advanced to that Road.

Q. Do those accounts contain any items of charges for interest against that Road? A. I do not see any, sir.

Q. (By Mr. Walker.) We ask for a statement of the total amount advanced by the Trust in cash, materials, labor, surveying, etc., and all charges paid by the Trust in connection with the construction of the Missisquoi Road.

Q. (By Judge Poland.) Mr. Williams, is that account still open and unsettled. A. Yes, sir.

Q. (By the same.) Is there not a large credit of interest to that Road—did they not make an advance of money to the Trust? A. They did, sir. The interest is still open, it has not been settled yet.

Q. What amount did they loan to the Trust? A. \$100,000.

Q. Was not that the payment of a debt that was due by them? A. I think not, sir.

Q. If the Trust had given their note, the interest would be settled when the note was taken up would it not? A. I do not think the note has been taken up yet—I don't know whether it has or not.

Q. Mr. Williams, in what way was the business of the sleeping cars and palace cars conducted prior to the establishment of the Secret Service Fund—was it done through the officers of the Company, or through a so called Car Company—the New York & Boston Sleeping Car Company, or something of the sort? A. It is entered on the books. Mr. Locklin used to collect the money from time to time as it came in.

Q. Did he not sell tickets in the name of some Company? A. I think they went by the name of the New York & Boston Sleeping Car Company—but I am not positive—Mr. Locklin used to collect the monies and pay the Conductors out of it and return the account.

Q. Prior to the establishment of the Secret Service Fund, were the total amounts adjusted with him and received into the Trust as a Trust asset? A. Yes, sir.

Q. (By Judge Poland.) Are you sure that there was any such thing as the New York & Boston Sleeping Car Company? A. No, sir, not actually.

Q. (By the same.) Are you sure that they had any myth of that name? A. I have an indistinct impression that that may possibly not have been the name.

Q. (By the same.) You did not suppose there was any such Company in fact? A. I knew there was not. My idea was that it was used merely to lead the impression that the Road did not own and run the cars, so as to prevent the constant application for free passes by the employees and others. The receipts of the business all went into the Trust.

Q. It was a continuation of W. C. Smith's arrangement, was it not? A. Yes, sir; only carried on by Mr. Locklin.

Q. That will do, now, Mr. Williams.

Mr. Gyles Merrill called by Judge POLAND.

Q. Mr. Merrill, in reference to your answers the other day about the Pullman cars, you may now make what explanation you desire? A. I wish to explain in the reply I made recently about that stock, that it was only worth par at the time I bought it, I referred to the time when I agreed to take the stock, and not the time when the entry was made. The stock is charged to me in June, 1872. The stock itself was delivered, as the journal shows, Aug. 15th, 1871, nearly a year before.

Q. Was that about the time of the trade with Pullman? A. No, sir, that was made the previous Spring, and that was the time when I agreed to take the stock. The journal entry is made in June and refers to the arrangement as being made in August, 1871. The stock was not received for a good while after the contract. I agreed to take the stock at the time of the trade with Pullman, and that is the time to which I referred in my remark as to what the stock was worth. I don't want to be misunderstood in that matter, because it would not show the matter as it was.

Q. Did the Company not receive the stock until quite a long time after the trade with Pullman? A. I think not until after August, 1871. It was not until sometime after the agreement was made to take the stock.

Q. And the time the trade was made and it was agreed that you should take so much stock, you say it was not worth above par then? A. My impression is that it was below par then.

Q. I believe you stated several days ago how much it had gone above par? A. I think it went as high as 12; I have not seen it higher. I know at the time when I agreed to take it it was just about par.

Q. Did you know about the trade that was made with them and Pullman? A. I was present part of the time, not all of the time.

Q. Well, did you know there was a very great difference between the Managers and Mr. Pullman, in relation to the value of the cars they sold him? A. Yes, there was.

Q. Did he object very greatly to the price? A. He did, sir. He—

[This form of questioning was objected to by Mr. Davenport, as "leading," and Judge Poland put it in another form.]

Q. Will you state, if you know, whether Mr. Pullman objected to the price? A. He did, sir; he offered something considerably less.

Q. Now, will you state, sir, whether or not Mr. Pullman refused to take the cars at that price unless they would take pay for them in stock? A. I understood so, sir. I was not present at all their negotiations.

Q. (By Mr. Walker). Did not Mr. Sessions appraise these cars that were sold to Pullman at \$62,500? A. I did not know that he did at that time.

Q. Don't you know that he had very shortly before the sale or about the time of the sale? A. I don't know of any appraisal of the cars being made after the previous June.

Q. Do you know what they were appraised at at the time? A. Nothing over \$50,000—that was the ordinary annual appraisal of the

Q. (By Mr. Dennison.) When you say June do you mean June, 70? A. Yes, sir.

Q. Then you never heard of Mr. Sessions' appraisal of the cars at \$2,500? A. There may have been one and I not know of it. I don't collect any now except the annual appraisal.

Q. How many cars were there? A. I think seven—two day cars and five night cars. The cars were not very good ones, and the condition made with Pullman was that he should put on new cars, and that the old ones should be taken off the road as soon as the new ones could be built.

Q. Did you say that the party to take the stock was made up at the time the bargain was made with Pullman in 1871? A. I don't know whether they all agreed to take their stock then. I did.

Q. Did you make any investigations as to the value of the stock? A. No, sir; except what I learned from Mr. Pullman.

Q. You did not inquire of any brokers in Boston or Chicago? A. No, sir.

Q. When was the stock delivered to you? A. I think in the fall of 71.

Q. When did you pay it? A. I paid for it at the time it was delivered. I paid par—\$5000.

Q. Did you pay any interest? A. I don't think I did and I don't think I ought for the road was often indebted to me—sometimes I had to wait a long while for my salary after it was due if the road was short of money, which was equivalent to loaning them money, and I never charged interest on such occasions.

Q. Did you have the dividend meanwhile? A. I think not. The stock was new and was issued just after or about the time they paid their dividend, and of course it would not bear any dividend before that date.

Q. What date was it delivered? A. I don't know the exact date—it was in the fall.

Q. Well, there was an accruing dividend after the August dividend, was there not? A. There was a portion of the accruing dividend, I think.

Q. What was the arrangement made as to when the stock should be delivered when you made the contract in the Spring? A. I was to take it when the road got it.

Q. Well, when was that to be? A. I don't know that any definite time was named. It ought to have been received from the Pullman Car Company earlier than it was.

Q. Do you know the market value of the stock when it was received? A. I do not.

Q. Do you remember when the transfers were made upon the books showing the distribution of the stock? A. They are entered 1st of June, 1872; but the entry states that the stock was sold the previous August.

Q. And at what time do you say the stock was 112? A. remember; I should think a good while after I bought it.

Q. Do you know what the stock was in June, 1872? A. remember; I had no means of fixing its value at any time, at first, when I tried to inform myself.

Q. You never heard that 116 was the asking price in Chi June, 1872? A. I did not hear so.

Q. The dividend was at 12 per cent.? A. Yes, sir.

Mr. Walker: I want to put in evidence the entries in Journal I, June, 1872, headed Pullman Palace Car stock account, ed for cars, in Aug., '71, \$50,000. On the other side—Sund Pullman Palace Car account, stock sold in August, 1871,—interest paid from that date—

J. Gregory Smith,	\$10,000
B. P. Cheney,	10,000
W. C. Smith,	10,000
L. Barnes,	10,000
George Stark,	5,000
G. Merrill,	5,000

Entry in Pullman Palace Cars, to sundry amounts of stock—

Paid G. Merrill,	\$ 5,000
“ G. Stark,	5,000
“ B. P. Cheney,	10,000

Another entry on Notes Receivable—

To sundries, L. Barnes, for his note, due Jan., 26–29, in pay Pullman Palace Car stock—interest for Aug., 1871, at 12 per cent

\$10,

Interest,

1,

Q. Did the other gentlemen, besides Mr. Barnes, give their for the purchase of that stock? A. I have no means of knowing paid for mine in money, or in what the road owed me at that time salary, etc.

Q. And you cannot tell how long after August, 1871, the ment was made? A. I think in November.

Q. Do you know whether notes were taken from either other gentlemen except Barnes? A. I had no means of knowing did not keep the books.

Q. Do you know if the other gentlemen paid interest as did, up to the time that these items were charged in the books? do not, sir. I have no means of knowing.

Q. I think you said you did not pay interest? A. No, sir not pay interest. I find the last amount to my credit was in Nov 1871, and the entry for the stock is in June, 1872. My salary is to a greater amount than that very often.

Mr. Walker:—Upon page 105, Ledger H, is the account w Pullman Car Company. Mr. Merrill is credited by cash, \$5,000 the cash book, page 304, shows cash received from G. Merrill, and also a similar amount from George Stark. Ledger I further on page 547, \$10,000 charged to J. Gregory Smith, and also to Smith, for a similar amount—date of these entries June, 1872.

(Mr. Walker could not understand these entries, but they were satisfactorily explained to him by Mr. Worthington C. Smith.)

Mr. J. W. Hobart called and sworn; direct examination by Mr. WALKER.

Q. Mr. Hobart what is your present occupation? A. Superintendent of this Road and its Leased Lines.

Q. How long have you been Superintendent? A. A year ago last September.

Q. Prior to that was your occupation General Freight Agent for a number of years, of the Roads of the Trust and the Leased Lines? A. Yes, sir.

Q. How long were you in that capacity? A. Fourteen years.

Q. Were you knowing to the contracts that were made with the National Car Company and V. I. & C. Company for the use of their cars upon the roads of the Trust? A. I knew something of them.

Q. Were those agreements in writing? A. I think so.

Q. I whose possession are they? A. I suppose they are in possession of the Managers. I have not seen them that I know of.

Mr. Walker:—I should like to see those contracts.

(Contracts to be furnished.)

Q. What was the Merchant's Despatch Company, Mr. Hobart? A. It was a Line—the first Line—established by the Grand Trunk Railway for doing their business.

Q. Who owned the cars? A. A few cars were owned by the Central Road and marked "Merchant's Despatch."

Q. Prior to that time had there been any through business to any extent over the G. T. R. in connection with the Central Road? A. There was an arrangement made with the G. T. R. as far back as 1858, I think, for business by way of the G. T. R. and Ogdensburg—that was previous to my going into the Freight Department. That was by way of the ferry between Prescott and Ogdensburg.

Q. Was there much business—that is, through Western business—over the G. T. R. through Montreal prior to the establishment of the National Car Company? A. Yes, sir; we had considerable business before that, but it had decreased.

Q. The object of the National Car Company was to develop that business, was it not? A. Yes, sir; I understood so.

Q. And the cars were of peculiar construction adapted to the gauges? A. Yes, sir.

Q. The National Car Co. has a separate contract, has it not, with each of the roads over which its cars run? A. Yes, sir.

Q. And makes its collections from each of the roads? A. Yes, sir.

Q. The Central Vt. has nothing to do with the use of its cars over any other road except those operated by the Central Vt. Road? A. No, sir.

Q. For what purpose was the Vt. I. & C. Co. started? A. For the purpose of supplying the necessities of the roads.

Q. Was not the original object contemplated by the projectors of that concern the manufacture and repairing of cars for the Central Road and other roads and of cars of the National Car Co., rather than the construction and owning of cars? A. I don't know that I fully understand your question, sir.

Q. Whether the intention of the projectors of that company at the time of their obtaining a charter or before was not to manufacture and repair cars, rather than to own cars and lease them? A. I think not. I had, perhaps, more to do with the starting of that company than any one else. I urged the Managers for more than two years to give us more cars. We had not enough for the requirements and necessities of the road. I represented to the managers the facts of the case and assured them that I would rather be out of the service of the road than stand in the position which I was placed in without a sufficient quantity of cars. The last time I conversed with Gov. Smith about it was on Bank Street and I informed him at that time it was utterly impossible for us to do our business properly without a better complement of cars, and he promised me that something should be done. Soon after that conversation the Vt. I. & C. Co. was incorporated, and its sole purpose was to meet the necessities of the road and facilitate its business.

Q. Why was the word "iron" used in their incorporated name? A. I don't know, sir.

Q. Upon what roads was it intended that the cars of that company should be used? A. They were to take the business from the Central road and its leased lines, and to take freight coming from Ogdensburg, brought to that point by the boats.

Q. And for delivery to the lower roads? A. Yes, sir.

Q. And also for local business upon the Central Road? A. Yes, sir, if required.

Q. Were the National cars used to any extent for local business upon the Central Road? A. The rule was not to use them at all unless we were very short; but we sometimes took them, but it created great dissatisfaction.

Q. Was there any rule as to transshipment of freight at St. Albans into cars of the National Car Co., destined from Western points? A. No, sir.

Q. Has ever such transshipment been practiced? A. I have never given such instructions to have such done. If we had freight going West which was loaded in cars not adapted to the Western lines, then, in that case, we should transfer.

Q. Was that transfer made here or at St. Johns? A. It was made here in preference to St. Johns.

Q. (By Mr. Underwood). Will you state whether these Vt. I. & C. Co. Cars had any connection with the lumber business at Ottawa? A. Yes, sir, it had. The lumber men of Ottawa requested more cars, and one of the special reasons for which these Vt. I. & C. Co. Cars were constructed was to meet the requirements of that business. About 500 of the cars were made for the express purpose of carrying 33-foot lumber.

Q. How many of the cars of that Company have been used in that business? A. They were all very much in demand. We were fully able to supply the demand.

Q. What proportion of the cars were used in the lumber business up to July 1st, 1873? A. I should think about 400.

Q. In that business and no other? A. Yes, sir. I would say when the cars were first built they were designed for lumber, but as new and clean we used them for a time to carry grain from the elevators, frequently to the detriment of the lumber men, who complained greatly. We gave the elevators the first chance for cars, and they were used the first year in the grain business at Ogdensburg.

Q. How are the cars of the Vt. L. & C. Co. treated by the other roads over which they run. Are statements made for the use of them, for instance, over the lower roads? A. No, sir. I think the road assumed a rate and that settled with the lower roads.

Q. Then this road pays the whole car service and then charges the other roads? A. Yes, sir.

Q. It is claimed that there has been a certain profit made by this road in the use of those cars over the lower roads? A. That was the result of it a couple of years ago.

Q. Did you make that collection Mr. Hobart? A. It was made by some of the clerks in my office at the time.

Q. And it included the running of the cars both ways? A. I think it did.

Q. That did not apply in any degree to the cars of the National Car Co.? A. No sir.

Q. Mr. Hobart, during your administration in the freight depot or the last two or three years while these car companies were in operation what were the ruling rates of through freight via the G. T. Road from Chicago to Boston? A. Well, they fluctuated a great deal. I think the average ruling rate was \$1.10 per barrel for flour, and for grain I think \$1.10 per car.

Q. What was the lowest rate for which you have transported freight from Chicago to Boston by the car, any class of freight? A. I don't remember. I don't think there was ever a less rate than \$90 per car given. We had some very low freight by the Schoenectady line.

Q. What were the lowest rates you remember being given via Ogdensburg? A. I don't remember any at less than \$90.

Q. Upon the arrival of a car at St. Johns, destined for Boston, are accounts kept at St. Johns showing the business of the car, and dividing the charges there? A. It was not a practice at that time, sir.

Q. When was that practice adopted? A. I think within two years since.

Q. In what way were your accounts kept so that you have been able to ascertain the earnings of the several cars? A. By reports from the station agents.

Q. Where do these reports come from in reference to through business? A. We have passing reports. They are on a different colored paper to the local reports; so that we had a full record of the way bill at the point where the freight came on, and where it left our

line. We made these kind of reports between ourselves and the G. T. Road, and also at Rutland with the R. and S. Road.

Q. Also at White River Junction? A. No, sir, not there, we settled the accounts for the line.

Q. For what was called the Vermont Central Line? A. Yes, sir; from Ogdensburg or St. Johns to Boston.

Q. Then the passing report made at St. Johns would show the proportion that was due to the back roads, and what was due to the subsequent roads? A. Well, it would simply show a copy of the way bill; the division would be made in the office here.

Q. Were those divisions entered into a book? A. Yes, sir; into what is called the freight record book.

Q. How were the proportion of freight receipts apportioned among the different roads constituting the Vermont Central Line? A. Pro rata on actual mileage basis.

Q. What is the total mileage from Ogdensburg to Boston? A. 405 miles.

Q. What from Ogdensburg to White River Junction? A. 262.

Q. What is the mileage from St. Johns to Boston? A. 306 miles.

Q. What proportion of that was included in the distance between St. Johns and White River Junction? A. 163.

Q. What was the length of the lower roads? A. 144 miles.

Q. In that computation of mileage what was the estimated mileage of the M. & Vt. Junc.? A. 32 miles.

Q. I don't mean the actual mileage but the amount in which that road is entered into account in making the freight divisions? A. I am not able to say.

Q. Was it not reckoned as 36 miles for some purposes? A. Yes, sir, I think you are right.

Q. For what purpose? A. On account of the price of gold exchange I think.

Q. In what computations was it reckoned as 36 miles in dividing the freight receipts? A. I don't remember just how that was. There was 9 miles added to the actual distance I think.

Q. In dividing the freight receipts and passenger receipts? A. Yes, sir. I think it had something to do with the old line from Rouse Point.

Q. Were the operating expenses of the Vt. Central Line apportioned upon the same basis as the receipts were? A. I don't know to that.

Q. Do you know as to the basis upon which the expenses of the O. & L. C. R. R. contract have been apportioned with this line and the lower lines under the contract in that respect? A. No, sir; I do not.

Q. Or in respect to the sinking fund? A. No, sir; I have heard nothing to do with the figures.

Q. Or in respect to the salaries? A. I don't know, sir. When I was in the freight department we decided the pay of our men at that time according to distance.

Q. What was the lowest rate of freight that you remember having charged from Boston to Chicago, by the car, by either route? A. I think we carried some freights as low as \$60 per car—that was via Ogdensburg. I don't think we have carried any as low as that by the G. T. R.; possibly we have but I don't remember any.

Q. What proportion of the cars of the National Car Company should you suppose returned empty to the West? A. Well, perhaps half of them.

Q. Should you not think three-quarters? A. I should hardly think three-quarters. Some of them might have local freight.

Q. Then you have allowed those cars to bring local freight to points upon these roads—that is, from Boston? A. Occasionally, sir.

Q. What was the rate of freight per car from Montpelier to Boston? A. We have had rates from there as low as \$5 per ton—\$50 per car for a car load.

Q. What from St. Albans to Boston? A. As low as \$60 per car from here.

Q. Are those what you call special rates, and made for special business? A. No, sir; we have tariff rates on some kinds of freight as low as that, such freight as iron and the heavier classes of goods.

Q. Who had the fixing of the rates of freight from 1870 to 1873? A. We had them from points upon our Road.

Q. Who fixed the through freights? A. Mr. Millis in conjunction with the other roads of the Line.

Q. He represented your Road? A. He did as far as through business is concerned.

Q. Will this freight book which you spoke of enable you to take for instance a certain month, and ascertain the total amount that was received by the Central Vermont Line from St. Johns to Boston on Western freights for that month? A. Do you mean, determine the proportions and the through rate also?

Q. Both? A. I think the freight record book that I mentioned does not cover the divisions. I think the abstracts made from this book would cover the divisions.

Q. How often were those abstracts made? A. Once a month.

Q. You say Mr. Millis had the fixing of the through rates? A. Yes, sir.

Q. In what capacity did he act in that matter? A. As Agent for the Vermont Central Line.

Q. From whom were your remittances received for this through business? A. From the local agents at points where the freight was destined. If freight was consigned to a party at Montpelier the Agent there would collect the freight charges and remit the entire amount. If the freight went to Boston the Agent there would send it.

Q. Who would that Agent at Boston remit to? A. He would remit to his terminal office.

Q. On that through business was it customary for each road to remit back to the road next preceding it, the amount which was its due,

or was the amount due to the Vermont Central Line broken up and distributed to the roads composing that Line? A. The amounts were settled monthly.

Q. Where were those monthly settlements made? A. Here.

Q. Were any books kept at Boston in relation to them? A. There were books kept by the lower roads, I suppose.

Q. Were there any books in Mr. Millis' office in connection with that subject? A. I think not, sir. He may have kept records of the contracts and copies of the Bills of Lading.

Q. And the books in reference to this through freight were not kept in this office? A. No, sir—kept in the Lowell Depot.

Q. Supposing the freight upon a car from Chicago to Boston was \$90, can you state what proportion of that amount would be due to the Line from St. Johns to Boston? A. I can upon calculation. I should have to look over the figures a little to arrive at an accurate conclusion.

Q. Will you please estimate and let us know this afternoon, and also what proportion the roads in the Central line would each receive? A. Yes, sir.

Q. Were you consulted and did you take part in the fixing of rates in through business by the National cars? A. I don't know that I have; yet I was constantly in communication with Mr. Millis and was in Boston nearly every week in conference with him, but it did not come within my province to say what the rates should be; that was done by Mr. Millis. The fixing of rates was left to the Committee of the line, and I presume General Stark gave Mr. Millis his instructions in regard to the rates, &c. There was a Vermont Central Line Committee, the annual meeting of which takes place in February, and for several years General Stark, of the Lowell Road, has been Chairman, and from him Mr. Millis receives his instructions.

Q. How long is the line of the Lowell Road, Mr. Hobart? A. 48 miles, I think. That is the last road in the route into Boston.

Q. Is that a double track road? A. Yes, sir.

Q. How far from Boston does the double track extend? A. 75 miles, to Concord.

Q. In doing local business, either as to freights coming on to the road to be delivered to points on the road, or freights drawn off the road for different distant points, you had the entire charge of the rates, had you not? A. Yes, sir.

Q. Was it customary to make special rates under certain circumstances that varied from the tariff charge? A. We did that frequently, sir.

Q. Who, here in St. Albans, had such special rates? A. I don't remember any party. There were parties had special rates between here and Burlington in coal. They paid as low as a dollar per ton on coal and \$1 20 per ton on iron.

Q. Were there any special rates for the transportation of iron from the South to St. Albans? A. Well, I think I have given rates from here to Worcester on iron, \$5 per ton.

Q. What rate has been paid on iron by the Foundry Co. from Boston? A. Never less than \$5 per ton—I think \$6 would be

average. I think the Foundry Company have had iron from North Adams in several instances where the T. & B. R. R. made a special rate with us.

Q. Was that the Salisbury iron? A. I should think it was, very likely it came over the B. & A. R. R. via Pittsfield.

Q. Has there been any special rates given to the Iron & Steel Works? A. They had rates from Burlington to here on the same basis as the Foundry Co.; they tried hard to get rates down.

Q. (By Mr. Underwood.) Can you state whether these rates from Burlington to here are fixed with reference to any water transportation? A. Yes, sir; there is a strong competition by water. The Iron & Steel Works contemplated getting their material via St. Albans Bay and carting it from there, and we are obliged to make these rates such as will meet that competition. We have great difficulty now in holding the coaltrade by our road.

Q. Are there any other parties here who purchase iron, except the Rolling Mill and Foundry Co.? A. I think not. There was a scythe concern up here before the road was extended from St. Johns, and they had low rates.

Q. Do you know what the passenger fare was from St. Johns to the line over the M. & Vt. June Road? A. I can tell by looking at the tariff, not otherwise.

Q. Do you remember the construction of the Waterloo Tram Road? A. Yes, sir.

Q. How has that road been operated since its construction? A. It was built before I came into the Department. I cannot tell anything about our rates for transportation there without looking.

Q. Is it operated as part of the S., S. & C. Road? A. I should think so, sir.

Q. Well, when you were in charge of the Freight Department you had charge of the business on that road also, hadn't you? A. I had charge of the Traffic.

Q. How often were trains run on that road in 1873? A. Just as often as necessity required them to run.

Q. Did they average once a week? A. I think during the summer they ran nearly every day—possibly not every day all along but frequently that.

Q. Can you tell what is the passenger fare from St. Albans to Boston? A. Not without looking. I have been out of the way of rates so much that I do not remember.

Q. Who was in charge of the passenger department when you had charge of the freight department? A. Mr. Elliot was passenger agent. He is now out west.

Q. Is there any one now here in that department who could give a statement as to the details of what business was done? A. I do not think there is.

Q. At the time the Rutland lease was made, Mr. Hobart, that road had a business, had they not, by the Oakes Ames in business coming from the Montreal and Plattsburgh road? A. Yes, sir.

Q. What became of that business after the lease? A. It was taken a good deal of it round Moors' Junction.

Q. What was taken that way would come by Rouses Point and St. Albans, would it not? A. Yes, sir. We ran the boat a couple of years afterwards, I think.

Q. What is the distance from Essex Junction to Bellows Falls via White River Junction? A. 136 miles.

Q. What is the distance from Essex Junction to Bellows Falls via Rutland? A. 128 miles—9 miles difference.

Q. In selling tickets, Mr. Hobart, for points on the Connecticut River Road, south of Bellows Falls from Essex Junction and points above there, how has the business been thrown by the Sullivan Railroad or by the Rutland Railroad? A. I cannot tell you about tickets. The freight business has been taken very largely by the Rutland Road.

Q. Has the majority been taken by that Road? A. It has, sir.

Q. How does the freight business taken on to the Cheshire Road from the Sullivan Road compare with the amount of that business as it was done 10 or 15 years ago? A. I think it is something less now than it was then.

Q. The entire business, do you mean? A. Yes, sir.

Q. Has there been a passenger car run from here to Boston via the Sullivan Road? A. Yes, sir.

Q. Has there by the Rutland Road? A. There was during last summer; I think the whole of last summer.

Q. Have there been cars run from here or Burlington to Springfield by the Sullivan Road? A. I think there has been during the summer. I do not know how long that was run.

Q. Who has charge of passenger receipts in this office? A. Mr. Millis.

Q. Who is his chief clerk? A. Mr. Cummings.

Q. How long has he been here? A. About a year and a half, I should say.

Q. In such through freight as has been taken up on the Central Road and passed over the Sullivan Road to points south, how have the earnings been divided? A. On a pro rata division according to actual mileage.

Q. And there has been a terminal charge in favor of the Central? A. There has been some terminal charges on through freight; there would be a terminal charge where the freight started from, and where it terminated. If the freight terminated on the Sullivan that road would take a terminal charge.

Q. I mean freight originating on this road which passed over the Sullivan Road beyond, and I ask you whether, in settlements between the roads, whether this road was allowed any terminal charge? A. Yes, sir, 20 cents per ton.

Q. Was that true of freight coming from the South passing over the Sullivan Road? A. Yes, sir.

Q. Are you quite sure that that is the case? A. I would rather look and make myself sure. My impression is that there was a terminal charge allowed.

Governor Smith re-called by Mr. WALKER.

Q. Who was the first President of the Missisquoi Road? A. I was.

Q. How long did you continue President? A. Until last year.

Q. Are you able to tell at what price the contractor took the bonds of the Missisquoi Road? A. At par, upon his contract.

Q. Are you sure of that? A. Yes, sir.

Q. Was not there an arrangement made at what price they should stand, with him? A. My impression is that it was at par. They were sold at $77\frac{1}{2}$ per cent.

Q. Was that all that was realized for them? A. Yes sir.

Q. Were they not placed upon the market and bought by the purchasers at $82\frac{1}{2}$? A. No, sir; I don't think so. The arrangement I made with Mr. Harris, when the contract was made with him, for him to take the 1st mortgage bonds, and the town bonds and a certain amount. He agreed to build the road for \$650,000 or \$675,000, I don't remember which. He agreed to take the 1st mortgage bonds—\$500,000—and the town bonds to the amount sufficient to pay it; there was no cash in the transaction. He requested me to assist him in the disposition of these bonds. I spoke to several individuals in Boston among them Mr. Stevens, of the Globe Bank. He looked round the market for some time to see what he could do, and finally he wrote me stating that the best he could do was to take the whole of the bonds at $77\frac{1}{2}$ per cent. I thought that very low, but it was not a question for me to decide. I told Mr. Harris what could be done and he consented to have the bonds negotiated at that figure. I then notified Mr. Stevens that he could have the bonds, to take them all. I think Mr. Stevens was to allow 4 per cent. interest on the deposit. Sometime after this transaction I found we were in need of money and I loaned to the company \$100,000 of that sum—giving my check upon the Globe Bank for that amount, and took the note of the Trustees and Managers for it.

Q. Do you know what Mr. Stevens realized for the bonds? A. I do not.

Q. Had you any interest in those bonds under that sale? A. Not a dollar, sir except what I purchased.

Q. You received no commissions from the proceeds in any way? A. Not a cent, sir. I think I took \$20,000 worth of these bonds at the market price. I took them of the company here, that is to say I accounted to the company here for them.

Q. Did you pay Mr. Stevens for them? A. No, sir. I reserved the bonds in sending them to him, and I accounted for them at $77\frac{1}{2}$. The road was originally built upon the stock of the first mortgage bonds. I believe there was \$17,000 of stock subscribed after that. Mr. Brainerd, Theodore Smith, Mr. Huntington and myself, directors. We borrowed \$10,000 of Mr. Noble, of Essex; we also borrowed elsewhere of the banks, and endorsed paper individually to get it. The road was built to protect the town in the great fight between this place and Swanton. The company gave up the road to Mr. Brainerd and—I forget the other—as Trustees of the mortgage. Finally the road was

surrendered to the Trustees of the bonds for the benefit of the endorsers. There was then an amount due to the contractors, land damages, etc., and the road was held by Brainerd, and ——— if he was one of the Trustees, and operated for a great many years. Finally Mr. Brainerd and myself had to assume the last of the debts.

Q. Did you afterwards get possession of Mr. Brainerd's interest?
A. No, sir. I think I received for my own interest in that, for monies I had paid and interest, without reckoning my services, \$9,000 out of the proportion of the \$30,000 bonds. Before Brainerd died this road was started and he said we should not let it go for less than \$40,000. It was the only possible line for a road over the Hogback. It was surveyed for a road by the Vt. & Canada R. R. When we came to locate the Missisquoi Road it was determined to locate it upon that line, and Brainerd insisted upon having \$40,000 for it; but he finally left the matter to me and I sold it at \$30,000, taken in the first mortgage bonds. They were divided among the Directors. I think Mr. Huntington received 11 or 12 thousand dollars. Brainerd and Smith's proportions were about \$9,000 each—that is my impression.

Q. Do you claim that that was the most favorable route for the road, as far as grades were concerned? A. I do, sir.

Q. Did you report to your engineer that it would require a ruling grade of 100 feet per mile? A. Not quite a hundred, sir.

Q. You had to rise over the ridge or else tunnel through it? A. Mr. Bailey said it could not be done. We found the land damages would have to include several fine farms, which we should have to cut through. We thought the land damages would be too heavy.

Q. Were there not some damages that you could have avoided by going the other route? A. Probably there were.

Q. Would not the grade the other way have been less? A. Well, we should have had a longer stretch of level grade, but we should have to reach the summit at some point in the end.

Q. Is it not true that there are grades upon the line that are considerably steeper to any that would have been required upon the other route? A. That would have depended upon how the other road was built. We had very limited means to build the road with and had two heavy bridges on it across the Missisquoi river; one 600 feet long.

Q. Has not the engineer reported a grade of 105, 1/2? A. I think not, sir. I think only up to 90 feet.

Q. Does the engineer's office contain the surveys that were made at the time? A. I cannot tell.

Q. Does the engineer's office contain the surveys and specifications of the Swanton Branch? A. I don't know; I presume they do. I think the Vt. & Canada have them.

Q. Have you ever found any record of that settlement with the Vt. & Canada? A. I have not, sir. I searched in their books; found a committee appointed to settle with us, but I find nothing to show such a settlement, except the contract with the contractor.

Q. If that is found I should like to see it.

Q. Do you think the surveys and specifications for the Swanton Branch have been turned over to the Vt. & Canada? A. I think they were.

Q. There is a charge is there not, against the Missisquoi Road upon the Secret Service Book? A. I think there was a loan to that road, which has been paid back, I think.

Mr. Walker;—I wish to call attention to the "Exhibit 3," on page 3 of the appendix of Report of Investigating Committee. The item there represented does not seem to be properly charged in account.

Q. Governor Smith, do you know what was paid by Mr. Millis and Mr. Wilbur for the Boston office? A. I think Mr. Millis paid \$7,000; Wilbur's was entirely separate—I think he paid \$2,000 or \$1500. That was a transaction between Mr. Wilbur and Mr. Cheney.

Q. Did you ever learn what the taxes, etc., were, or if they were included in the amounts you mentioned? A. I don't know; I had nothing to do with making that arrangement.

Q. What time in the year 1870 was the last lease of the Sullivan Road effected? A. In the Spring of 1870, I think.

Q. Was the operation of the Valley Road by the Rutland after the Rutland leased it considered to be dispensable to the business of the Sullivan Railroad? A. I don't know that it was advantageous to the whole line; when they transferred our freight into their cars and changed all the way-bills of business that was destined to points on this road, and took everything over the Rutland Road they had it in their power to do so.

Q. When did you say this Rolling Mill was put into operation? A. My brother says in the fall of 1872; I think it was '73.

Q. Is that corporation the St. Albans Iron & Steel Works? A. Yes, sir.

Q. Who is clerk of that Company? A. Herbert Brainerd is Treasurer and is now acting as clerk.

Q. Can you tell me how much stock you own in that Company? A. Yes, sir; \$15,000.

Recess until 2 p. m.

THURSDAY, AUGUST 12—AFTERNOON SESSION.

Mr. Walker read the contracts of the National Car Company and V. I. & C. Company, which he desires to put in as evidence.

Mr. Hobart re-called by Mr. WALKER.

Q. Mr. Hobart, is that a proportion of freight receipts among the different Roads composing the Vermont Central Line? (Handing paper.)

A. I am not able to say without comparing, but I presume so.

Q. Will you please state the proportionate distribution of expenses as arising under the contract with the O. & L. C. Railroad? A. My answer will be based upon the division and expenses of the men; I have no knowledge beyond that. Most of the men run to St. Albans and the division is based upon a mileage basis pro rata.

Q. Are you not able to state the division as to the other matters?
A. I am not.

Q. Was it not in the book you were looking at upstairs this morning? A. No, sir. I have nothing to do with that. The division of expenses is made by the Chief Clerk.

Q. Do you understand this statement to be right? A. Yes, sir.

Mr. Walker:—Then I put in—"Statement of pro rata proportions of freight receipts on the Vermont Central Line from St. Johns to Boston and from Ogdensburg to Boston," marked "Exhibit 55." Also statement of division of expenses among the roads of the Vermont Central Line, marked "Exhibit 56."

Mr. Worthington C. Smith re-called by Mr. WALKER.

Q. Mr. Smith, will you please state the percentage of the distribution of the deficiencies among the different Roads, arising out of the Ogdensburg Lease? A. I think the funds were brought up to December, 1872, and the proportion of contribution of this Road was 74 and a fraction per cent.

Q. Can you state the percentage of the Northern Railroad? A. No, sir, I cannot; it was divided up between White River Junction and they assumed a portion of the Concord. I think it was somewhere in the neighborhood of 12 per cent.

Q. How was it divided upon the Northern, Concord, and Boston & Lowell? A. That was based upon the proportion of gross receipts which each Road had received from the business.

Q. Was the contribution of these various Roads to the sinking fund provided for by the lease of the Boats—was it provided for in the same ratio? A. Yes, sir.

Examination of Mr. Hobart continued.

Q. Are you able to state now, what is received by the different Lines between Chicago and Boston upon a car transported for \$90 between those points?

A. Michigan Central—284 miles,	\$26 89
Grand Trunk Railway—555, (nominal mileage,)	40 39
Central Vermont Line,	22 72
	<hr/>
	\$90 00

making the Central Road's proportion \$11 93.

Q. That is for the Line from St. Johns to White River Junction?
A. Yes, sir.

Q. What part of that amount goes to the Vermont Central proper from Canada Line to White River Junction? A. \$2.52 to the Montreal & Vermont Junction, and the balance—\$9.41, would be the Central Vermont proportion.

Q. Will you now deduct car service on the car from St. Johns to White River Junction? A. At 2½ cents, car service, that would leave \$7 05.

Q. Now, will you divide that by the mileage from Province Line to White River Junction, and tell us the value of the car per mile? A. Six-tenths cent per ton per mile.

Q. Now, suppose that car were to go back empty and $2\frac{1}{2}$ cents per mile more was to be deducted, how much would be left? A. 4.69 mills.

Q. Mr. Hobart, is there any railroad that you are aware of which considers itself able to transport freight low as one cent per ton per mile? A. That depends upon circumstances, money can be made at that rate—but of course it would depend upon circumstances.

Q. In your opinion money could be made at a cent per ton per mile. A. Yes, sir; I think it could be made at $\frac{1}{2}$ cent, if there was a train full both ways. I think it could be, one way, at 1c per ton per mile.

Q. With a single track? A. Yes, sir, I think so.

Q. (By Judge Poland.) You take freight both ways to a considerable extent in your cars. A. Yes, sir, a very large portion of it.

Q. (By the same.) Well, a good deal of freight coming through from the West would stop at stations along on your road? A. Yes, sir, and we get the same price for that as for freight going right through. I went into a calculation two years ago, and found we received an average of $1\frac{1}{2}$ c per ton per mile on western freight. We get as much for freight if stopped at St. Albans as we did if it went through to Boston.

Q. Where is the calculation now, of which you speak as having made two years ago? A. It is put upon a memorandum book, but I cannot find it; I will look again for it.

Q. I should like to see that calculation. Do you remember how you made it? A. My impression is that I took three or four months in the year—the best and worst portion of the year. I took western freight all along west of Sarnia.

Q. Did you put in any from points this side of that place? A. No, sir.

Q. Would you put in the whole freight, whether in National Cars or others? A. Yes, sir, all of it.

Q. Now in that freight supposing you have \$25 for hauling a car from St. Johns to St. Albans, what proportion of that would the M. & Vt. Junc. Road get? A. My impression is $\frac{1}{2}$ —but I am not sure.

Q. Have you ascertained in relation to the question of terminal charges in freight passing over the Sullivan—how was that? A. On the Boston line there is a terminal charge of 20c each end.

Q. How about the Conn. River Road? A. Nothing on that.

Q. (By Judge Poland.) I wish to ask the witness if, at the time the Rutland Road came into possession of the Managers, under the lease, there was not some freight contract existing over the Schenectady Line with the Rutland Road, which was at a very low price? A. There was.

Q. Will you state how much you got per mile for carrying freight under that contract, as long as it lasted? A. I have not made any calculation and I don't remember the figure, but I know it was so low that we got nothing at all out of it.

Q. Was that contract stopped by the Managers? A. It was, sir. The average we got out of that freight was, I know, a great deal worse than anything we ever had.

Examination by Mr. WALKER resumed.

Q. That rate was \$25 from Schenectady to Boston, was it not?
A. I don't remember. I don't think it was as much as that.

Governor Smith re-called.

"It was 20 per cent. of the all rail rate, whatever that rate was from Chicago through to Boston, over the N. Y. C. R. R. These parties at Schenectady were to have from Schenectady to Boston 20 per cent., and I objected to that as too low. We insisted upon having 25 per cent., and compromised the matter at 22½.

Q. (By Mr. Walker). Up to that time, Governor, had you refused the business? A. We had at 20 per cent., because it was too low, giving us less than 3 mills per ton per mile, and in some instances it went so low that there was nothing left.

Q. How long did you operate under that contract before discontinuing it? A. I think we discontinued it a year ago last Winter.

Q. You had the same advantage upon that road as you had on this, had you not, that the same rate would apply to intermediate points as well as to Boston? A. I don't think so, but you may be correct. Still, I think it was more than a year after we took the Rutland Road that we applied what is called our "Boston rate" to points on that road. I think that rate was not applied generally to the Rutland Road when we leased it and not for some time after.

Q. How did the rates from Boston to Chicago, or Chicago to Boston via Schenectady, compare with the rates via Montreal? A. They were lower—no—the through rate was the same, but our proportion was very much less. We got a very much better division from Ogdensburgh, and we considered it a great injustice to our all rail line to work against them by taking 20 per cent. of the rate, for freight, from Schenectady to Boston.

Q. Then the only change that has been made is in reference to freight coming by water from Schenectady? A. Only to that freight.

Q. Now, the question I asked you was how the all rail rate via Schenectady compared with the all rail route via Montreal? A. There was not a great deal of that freight; my impression is that the through rates were about the same.

Q. Do you remember how the rate was divided among the rail road east of Schenectady? A. My impression is that the N. Y. C. Road charged to the Rutland Road the Albany distance. The N. Y. C. were unwilling to let that freight off at Schenectady when they could run it through to Albany, and therefore they charged Albany distance division. I am not positive as to that, but that is my impression.

Q. Did not the railroads east of Schenectady upon such freight receive a rate of \$25 per car? A. No, sir, I think not. It could possibly have been done with the low rates existing.

Q. You say that the rate from Chicago to Boston via Montreal has been kept even with the rate via the N. Y. C. Road? A. I think we have always got a little more.

Q. The route was managed as a competing line with the N. Y. C. route? A. Yes, sir, for the strictly Boston business it was, and

is where the extreme case you put to Mr. Hobart conveys a wrong impression to any listener—he takes a single car through to Boston, while our train is two thirds made up of business that did not reach Boston at all.

Q. Do you testify that this is the fact? A. That is my understanding—I think I am safe in making that statement—a very large proportion at any rate does not go through to Boston.

Q. Do you carry some of your tonnage between the New London Northern Road and New York? A. Yes, sir.

Q. Have you ever taken Western freights that way to New York? A. In exceptional cases.

Q. Have you ever taken through freights between Rutland and the Harlem Extension Railroad down to New York? A. I don't think we ever did, because the specific rate of the Harlem Road would forbid it. We only took a very small amount of through freight to New York—in very exceptional cases—via New London. Sometimes the Boston & Albany were pressing us in rates to the West, and in such cases we could not cut the rates without the sanction of the New York Central. In such cases we would take New York freight—sometimes at a very low rate, which would induce the N. Y. C. Railroad to stop the B. & A. Railroad cutting the rates; but these were exceptional cases, as I have said.

Q. Do you remember any time when that was done? A. Yes, sir.

Q. When? A. Well, I don't know that I can give the particular instances. I know that on one occasion the New London Northern Road took a large contract from New York for carrying Government supplies to their posts on the Pacific coast, but I cannot tell the rate now.

Q. Do you remember what year that was in? A. I think 1870 or '71. We made very little in taking the New York freight—perhaps nothing—but we lost nothing. The object we had in view, whether we might lose or not, was simply to show the other Road that if they encouraged and supported the Boston & Albany in their conflict with us that we could retaliate upon them and control their prices from New York, although we did not want the freight. The result was that it had the desired effect and the severe competition was checked.

Q. (By Mr. Safford.) In reference to the report of the Railroad Commissioner in 1871–2, will you please state from that report what the total number of tons of freight carried per mile was during 1871–2? A. 163,850,64 tons.

Q. What was the number of way freight? A. 41,524,228.

Q. Now, Governor, can you state the average amount received for carrying way freight per ton per mile? A. I cannot tell you that, sir. The earnings from freight, as shown in this book, (Vt. State Officer's Report, 1871–2,) is \$3,030,393.84.

Q. In relation to the Boston & Albany freight I inferred from your testimony that you desired to be understood as saying that the B. & A. Railroad cut under your rates, is that a proper inference? A. That is what I intended to say; I understand they say we cut under their rate.

Q. When did you first come into competition with the B. & A. Railroad for this through business. A. We have always been in competition since that Line was opened.

Q. But you did not come into active competition, did you, until after the Montreal & Vermont Junction Railroad was built? A. We always were in competition with them. Our business increased when we opened our all rail Line, but we had a water Line. Our business was somewhat limited by that Line because it only ran during the season of navigation. When we started with the water Line they had 13 boats in the Line, afterwards it got up to 21. When we formed our through Line to the West in conjunction with the G. T. R. that Road gave up its competition with us for Boston business via Portland, and from that point our business increased largely.

Q. What was the ruling price with the B. & A. R. R. for the transportation of freight from Boston to Chicago at the time that you commenced this increase of tonnage? A. I have not the slightest idea, I cannot carry these figures in my mind.

Q. Well, do you know what you went into the market and bid for freight at? A. I don't remember now.

Q. Have you not had at different times a standing offer to shippers of freight from Boston to Chicago, to take such freight at a certain per centage—say five per cent.—less than the rates charged by the B. & A. R. R.? A. I think not; it may have been at five per cent. below the printed tariff rate. We had a road convention at Niagara Falls, made up of all the roads, New York Central, B. & O., Pennsylvania, G. T. R., &c., and our line of the western roads were there. The question was thoroughly discussed as to how we should stand to equalize our line with the others—ours being the longest line. The other roads were giving through bills of lading without change of cars and on time contracts of course they could beat us, and in order to enable us to hold our position in the market we had to equalize that in some way. We proposed to do so by a concession on their part, to us, that we might have a certain per centage below—that we might be at liberty to go a certain per centage below the agreed tariff rate without being held responsible for a violation. Several of the roads would not concede it and the convention broke up without any decided settlement. The lines in connection with ours agreed that they would insist upon the required concession. We claimed ten per cent. below the tariff rate without violating the compact.

Q. Well, there was no compact, I understand you broke up without arranging anything? A. I mean the tariff rate which the other roads agreed to. We claimed that our rates should be ten per cent. below the other roads.

Q. And to that extent you were underbidding the Boston & Albany? A. Yes, sir. We had to do that to have some concession to hold our business. Finally the B. & A. conceded the matter to us.

Q. (By Mr. Walker). Do you recognize any difference between the operating expenses of maintaining a double track road and a single track? A. Well, I suppose a double track would cost most to keep up.

Q. Don't you think it costs more to operate the trains on a double track? A. Well, I don't know; a larger capital is expended.

Q. Is there not less wear in a double track? A. Well, I don't know. I think not. There is about the same mileage to run, and we

had this advantage, we had return freight ; and I will here state, in reply to the question Col. Walker asked Mr. Hobart about rates. Taking Western bound freights—we can always afford to carry freight from East to West cheaper than from West to East, because the excess of tonnage is from the West. There are always more cars East than is needed. Now, we claim that it is less expensive and less wear and tear to the cars when they are loaded partly with tonnage than when empty, and if we can only get enough freight to steady the car and make it ride more safely. We have carried as low as \$2 per ton from Boston to Ogdensburg, and considered we made money, because when we had got the cars East they had to go back, and we could therefore afford to take the freight cheaper in the direction of empty cars.

Q. (By Judge Poland.) There are several lines, are there not, which freight from the west is carried ? A. Yes, sir.

Q. There is a great deal of competition, and you have to carry the freight at a very low rate ? A. Yes, sir.

Q. Suppose that you refuse to enter into these arrangements, and had a local freight of your own, what would be the result ? A. We should not get the business at all, that is all there is of it.

Q. You have always got your fair and full proportion of all freight going this way ? A. We always got as much as any of the other lines, and some times a great deal more.

Q. (By Mr. Davenport.) Governor, in reference to the N. T. line of steamers, have you yet ascertained the amount of the sinking fund ? A. Yes, sir, it is being prepared.

Q. Will you look at the Horticultural Hall report and tell me if the amount of your investment in the N. T. Co., irrespective of the sinking fund, was on the 1st of June, 1873, \$191,337 ? A. I think that is correct ; it was made up by Mr. Wilbur as treasurer, I think ; but whether he means by that the amount contributed to the sinking fund, or whether he means by it to cover the amount of losses on that road, including that fund, I don't know. I presume it covers both, because it states—sinking fund up to that time, \$104,693. I think the total amount he gives is the two amounts together.

Q. And you think that amount of \$191,337 embraces the investment in the sinking fund, but in order to ascertain how much is invested in the N. T. Co.—what you have invested since June, 1872, should be added on to the hundred and ninety odd thousand dollars ? A. Yes, sir.

Q. The statement which you promise to furnish will cover everything ? A. Yes, sir ; it will embrace all.

Q. Have you caused search to be made for the books containing the list of free passes issued from 1861 ? A. I have, sir. I have given directions for the book to be searched for ; Mr. Merrill and Mr. Hobart have looked for it. I did not have charge of those books at the Investigation, and don't know what became of them.

Q. Who did have charge of those books at that time ? A. Mr. Merrill took them, I believe.

Q. Have you any idea that they were left with the Investigating Committee ? A. I have never thought about it. You called upon Mr. Merrill for them at that time and he took them up to the hotel.

Q. (By Mr. Underwood.) Have you ever seen that book since it was before the Investigating Committee? A. I don't remember having seen it since.

Q. Governor, did you ever see that letter, written by Mr. Hobart to Mr. Clark, in reference to that list of passes? (Showing witness letter on page 4 of Appendix of Report of Investigating Committee.) A. Yes, sir, I have seen it I think in the book. I don't think I saw the letter itself. I think I told Mr. Hobart to refer Mr. Clark to the Managers for his answer. Mr. Clark wrote me a letter and I did not reply to it.

The letter referred to by Mr. Davenport read as follows:—

ST. ALBANS, VT., Dec 28, 1874.

ALBERT CLARK, ESQ., St. Albans,

Dear Sir:—In reply to your letter of the 26th inst., I beg to say that the documents referred to by you were duly presented to the Committee in open investigation, and are now in the hands of the Managers, to whom I would respectfully refer you.

Yours very truly,

J. W. HOBART, General Superintendent.

Q. Now, you say Governor, that you have not seen these books since the Investigation and have no knowledge of their whereabouts? A. I don't remember having seen them. I presume they are somewhere in the office.

Q. Was this letter from Mr. Hobart in response to the call made upon him for the List, which it was agreed should be furnished? A. I presume it was, sir.

Q. You have not directed these books to be mislaid, have you? A. I have not, sir.

Q. And you have no knowledge of why they are mislaid? A. I have not, sir.

Q. Is there any one in your employ who has access to the General Superintendent's office except that General Superintendent and the Receivers and Managers? A. I have not access to it except when it is open. Mr. Stanton, Mr. Hobart's clerk, has the combination to the safe and goes into it. I don't know who took charge of the books after Mr. Merrill took them up to the Welden House. I suppose the books are here, and they will probably be found. I asked Mr. Hobart and Mr. Stanton to look for them yesterday. Mr. Hobart was away, but Mr. Stanton has looked in the safe and says he cannot find them. Mr. Hobart says he does not know where they are. I intend to have a diligent search made for them. Mr. Hobart is of opinion that they were not returned, but I don't know what he bases his opinion on—he is here to answer for himself.

Mr. Gyles Merrill recalled by Mr. DAVENPORT.

Q. Mr. Merrill, were you Gen'l Sup't of this road at the time of the Legislative Investigation? A. I was, sir.

Q. Were you called upon to produce a list of passes? A. I was, sir.

Q. Did you bring before the Legislative Committee books containing the list of passes which had been issued by this management?

A. I did, sir.

Q. Did you read that list of passes to the Committee? A. I did. I read the list of persons who had received passes.

Q. Did you not agree to furnish a copy of that list to the Legislative committee? A. I don't remember that I did.

Q. Have you ever seen the statement in the report of the testimony before that Investigation—that you read the list and promised to furnish a copy? A. I don't remember promising to furnish a copy. I had Mr. Clarke's letter in regard to it. I have not seen the statement in the testimony that I know of.

Gov. Smith: At the time of that Investigation Mr. Hinchman was my private clerk and as the various Exhibits were put in I told him to take care of them and see that none were lost. Mr. Hinchman left the year after that and some of the papers that he had charge of has given us a good deal of trouble to find. The books may be found yet—I supposed when you called for it yesterday, and I was much surprised to find it was not here.

Q. When did Hinchman leave? A. I think he left the following August—July or August.

Q. When did Mr. Merrill leave? A. Last September.

Examination of Mr. Merrill continued.

Q. Now, Mr. Merrill, I want to know if Mr. Albert Clarke, whose business it was to print the testimony taken before the Legislative Committee, addressed you a letter asking you to furnish him a list of passes which the reporters' minutes showed you had agreed to furnish? A. I think he did. He claimed he wanted it and that I was to furnish it. I do not remember agreeing to furnish it; I read the names and supposed the reporter took them.

Q. Now, Mr. Merrill, did you write the letter upon the 2d page of the Errata of the Report, dated Sept. 9th, 1874? A. I did, sir.

Q. Were the statements contained therein true when you wrote that letter? A. They were.

Q. Did you write a letter in explicit terms after this stating that the lists were in the office when you left, and did you have the knowledge that the statement you made was true? A. Well, I supposed that they were in the office.

Q. And you merely stated your supposition: you did not write that letter from any actual knowledge? A. I wrote it as I should write again: I believed they were at the office.

Q. Who had access to the Gen'l Superintendent's office? A. Mr. Stanton had while I was here.

Q. Was he the only person who had access to the safe in which these books were kept? A. He was the only one who could open it, I think: the safe was left open for the sake of others going in, but I think he was the only one who had the combination to open it.

Q. Did the Governor's private secretary have the combination to the safe? A. I think he had.

Q. Who, besides, had the combination? A. No one else, I think. I presume I gave mine to Mr. Hobart.

Q. (By Mr. Dennison.) Mr. Merrill, you had the same general knowledge that those books were in the safe that you had of any other papers. A. Yes, sir; though perhaps not so much as I may have had of some other papers.

Mr. Hobart re-called by Mr. DAVENPORT.

Q. Did you succeed Mr. Merrill as Superintendent, Mr. Hobart?

A. I did, sir.

Q. When did your term of office begin? A. Sept., '73.

Q. Whether after you became Superintendent you were called upon by Mr. Clark to furnish to him the pass list testified to by Mr. Merrill before the Legislative Committee? A. I think I was, sir.

Q. Did you write this letter to Mr. Clark? (Showing witness letter hereinbefore mentioned.) A. I think the letter was written by my secretary, Mr. Stanton. I think I dictated it; I am not certain about it. My letter-book will show who wrote it.

Q. Will you look at your letter-book and if Mr. Stanton wrote that letter, kindly ask him to step in here?

(Mr. Hobart goes to look at letter-book.)

Mr. Worthington C. Smith re-called by Mr. DAVENPORT.

Q. What knowledge have you, Mr. Smith, with reference to the existence of a book or books containing lists of passes issued by the management? A. I don't know that there ever was such a book. Well, I know there was a book of that sort, but I never examined it. I don't know where it was kept. I know nothing about it.

Q. And don't know where it now is? A. I haven't the least idea, sir.

Examination of Mr. Hobart continued.

Witness:—I find that I dictated the letter to Mr. Stanton, who wrote it and I signed it.

Q. And I suppose that letter was according to the fact, as you understood it? A. Yes, sir.

Q. Why did you suppose it was in the hands of the Managers? A. Because it was not in the safe.

Q. Did you confer with Gov. Smith about the matter before writing that letter? A. I don't know; I may have done so.

Q. There was no suggestion made that you should refer Mr. Clark to the Managers? A. I don't remember positively about the matter. I may have talked to Gov. Smith about it.

Q. How extensive a search have you made for those books? A. I have looked through the safe.

Q. Is there a book in your possession containing a list of passes issued the next year after you became Superintendent,—in 1874, that is? A. I am not certain without looking.

Q. Did you have a list of persons who had passes in 1873 and who were to receive passes in 1874? A. No, sir.

Q. How did you get at the names of the persons to whom you should send passes for 1874? A. Well, we had our lists from other roads for exchange passes, I think.

Q. Now, with reference to persons here in the State. For instance, suppose you were going to send a pass to Judge Polaud or Mr. Underwood, how would you find out that they were entitled to passes? A. If I sent them I should not do it without instructions. I was never governed by a list; never saw one.

Q. Well, who instructed you to issue passes to persons in this State? A. I think they were sent by the President.

Q. Were they filled up by him? A. Yes, sir.

Q. Were you in the habit of issuing passes to the citizens of the State? A. Mr. Stanton may have written them out. It took a long time to get through with it.

Q. Did you have special clerks for that purpose? A. We frequently called one in to do the work.

Q. Have you any idea to whom you issued passes in 1874? A. I could not tell you, here.

Q. Have you in your possession anything that will tell us? A. I don't know.

Q. Is it not true that the conductors on your road are directed to furnish each day a statement of the names of persons who ride upon free passes? A. I think so.

Q. Do they return that statement daily to the office? A. They do, sir.

Q. Where are those statements preserved? A. In the traffic department.

Q. In whose custody? A. Mr. Millis'.

Q. And in whose custody when he is absent? A. Mr. Cummings, I suppose.

Q. Well, now, does not the conductor indicate how many miles a man travels on his pass? A. I think the points to and from which the passenger travels is mentioned.

Q. Does that practice extend to exchange passes of Railroad Managers? A. I think so, sir.

Q. Would the conductor take a note of the party's name who was travelling with the pass and the name of the party signing the pass? A. I think the party's name who issues the pass is given by the conductor.

Governor Smith re-called by Mr. Davenport.

Q. Governor, what year from '61 to '73 would be a fair average to take for the number of passes issued? A. I think we gave most during 1869 or '9 during the time we were so pressed with litigation. I want to state here a fact which neither Mr. Merrill or Hobart stated—that these general passes are all signed by myself; on most of them my autograph used. Sometimes I have an application personally for a pass—I take a blank and fill it up and sign it.

Q. Who makes up the lists of persons to whom passes shall be issued, other than railway passes? A. There is no list, they are issued as the parties apply for them.

Q. Mr. Hatch testified he was present when the list was made up.
A. Well, he means the list of persons who desired passes whilst he was Montpelier. Editors and officials in the states have had passes.

Q. What officials? A. The Governor, Lieut. Governor, Treasurer, Adjutant General, Quartermaster General, Sec'y of State. The Judges of the Courts have always had them, since long before I came upon the road. The Deputy Collector of Customs and his staff have passes—his is a large list. Mail officials have them. The Postmaster at Washington generally sends an application for so many passes; he has one himself. We have had occasional applications for passes from the Transportation Service. There is no regular list made of the recipients of passes—we supply them as we are called upon. Editors of papers have received them, they have taken notice of things which have advertised the line, they have published matters pertaining to the road, such as running arrangements, &c.

Q. Do you mean to be understood that you have not paid for newspaper advertising—such as time tables, etc.? A. We pay some, but good many of the papers in the State having a smaller circulation, have published our time table without charge, and they also insert any little notices we may require without any charge. We have occasionally given such conductors of newspapers, passes. Such papers as the Rutland Globe, Herald, Burlington Free Press, etc. I think we pay in July for advertising.

Q. I notice a large number of vouchers—Mr. Willard of the Montpelier paper—for advertising, \$10 and \$15 each? A. I think he has a pass, and in consideration of that, his charge for advertising is reduced. Mr. Merrill calls my attention to the list of passes that I read before the Investigation Committee, and he says that it was unusually heavy list; that General Stannard in making his list, made very large, and insisted upon his demand being acceded to, and rather than quarrel with him about it, we granted all the passes he requested.

Q. Now, sir, does your list of free passes extend to officials connected with the administration of justice by the Federal Government in this State—that is, the Judge, Clerk of the District, U. S. District Attorney, Marshal, Deputy Marshal, etc.? A. I think it does. Judge Smalley has had passes ever since before I came upon the Road, and he also had passes on the Rutland Road. All the officials you mention have passes.

Q. You said the Governors of the State had passes—does it extend to ex-Governors? A. I rather think not.

Q. Then when a man ceases to be Governor he loses his privilege?
A. Yes, sir.

Q. And when a man ceases to be a Judge of the Supreme Court he loses it? A. Well, yes—unless he has the fortune to get a re-election.

Q. Now, Governor, how is it with Members of Congress?
I presume they have them.

Q. Has Mr. Dennison a pass of this management? A. Yes, he has.

Q. Has Governor Dillingham? A. Yes, sir.

Q. Mr. Edwards? A. Yes, sir.

Q. Now, Governor, has Mr. Dennison ever since you have been Receiver had a free pass over the road? A. I should think not always, sir—very nearly.

Q. Has Gov. Dillingham always had a free pass? A. I think he had one for some portion of the time.

Q. Has Mr. Edwards always had your pass? A. Well, I don't know—"always" is a great while.

Q. I mean always since you have been Receiver and Manager? A. I should think not, sir.

Q. May I ask you for what reasons you furnished passes at this time to the members of this board? A. They had their passes before I knew they were members.

Q. Well, what consideration are they to return to this Receiver-ship for their free passes? A. Mr. Dennison has rendered us a good deal of service in years past. He has rendered professional services, and if we had not given him a pass we should have had his travelling expenses charged against us. The pass was given him without any particular reference to anything, but for the reason of his having been in the service in former years, so has Gov. Dillingham and Mr. Edwards.

Q. I don't find among the vouchers any charges for professional services by Gov. Dillingham or Mr. Edwards. I did for Mr. Dennison, but they have been paid for. Do you mean to be understood that Gov. Dillingham's and Mr. Edwards' services have been paid for in free passes? A. I think that Mr. Edwards and Mr. Dickerman his partner was connected with the Trust and paid for it.

Q. I have seen Mr. Edwards' partner, Mr. Dickerman's voucher, I think. Now, Governor Smith, does the Chancellor who appointed this Board of Receivers, does he receive a free pass? A. All the Judges receive passes and have done so long before I came on the road.

Q. And the Court which is to revise the report of these Masters, if it is a question to be revised, they all have free passes? A. I have said that the Judges of the State had received passes long before I came on the road.

Q. Now will you tell me how extensive this distribution of free passes is among the lawyers of Vermont? A. I cannot tell you anything about it.

Q. Will you furnish the statement made by the conductors to the traffic office of the persons who ride upon the Trust roads upon free passes during any year that you think will be a fair year? A. I think Mr. Hobart was mistaken about those statements, though he may be correct. I do not think any record has been kept until since 1873.

Q. Mr. Merrill, was there such a record kept since 1873? A. (Mr. Merrill). I think there was, sir.

Gov. Smith:—We used to require conductors to return their passes when they had taken them up, so that we might see what they were. They were then destroyed, I think.

Q. Will you cause to be produced, Governor, a statement of the returns made by the conductors for 1873—the last year of Mr. Merrill's superintendency? A. I will, if there are any such statements or returns in existence. I will look them up.

Q. Will you have a search made, also, for the pass list? A. I will, sir. It is barely possible Mr. Hinchman may have laid it aside, and it may be found yet.

Q. Well, that is all I have to say about the pass business, just now.

Q. (By Judge Poland). Do you understand, Gov. Smith, that all the roads in the State, since you have been connected with this road as Manager, have given passes to Judges? A. Yes, sir, all of them; and I believe the custom is universal in all the New England States.

Q. (By the same). And to Members of Congress and State officials? A. Yes, sir. I am told it is the custom in Massachusetts, and I think it is in New Hampshire. We are applied to for passes by them. The other roads give passes in the same manner to officials.

Q. (By Mr. Underwood). Was there not at one time an application before the Chancellor to enjoin you to issue free passes if you refused to do it? A. Yes, sir.

Q. (By Mr. Walker). Do you object to show the records of the debts of the Trustees and Managers during their Receivership? A. No, sir; I will look it up.

Riverius Camp called and duly sworn, testifies.

Direct examination by Mr. DAVENPORT.

Q. Mr. Camp, in what position are you employed? A. I am connected with the Machine Shop.

Q. How long have you been engaged in that capacity? A. 24 years.

Q. Do you have custody of the books of that department? A. Yes, sir; the books of the Master Mechanic.

Q. It has been said by some witness here that you could probably tell us what the Directors' Car cost? A. I could not tell without looking at the books.

Q. It is a matter that is on the books? A. Yes, sir.

Q. I refer to the one that was built for Gov. Smith and his associates as Receivers and Managers? A. I can tell from the books.

Q. Will you examine the books and furnish a statement of its cost? A. I will, if I can. The car was built under Mr. Perkins, I think, many years ago, and he was not so particular in keeping everything, but I think I can find out the cost.

Q. Whether or not, Mr. Camp, Governor Smith and Mr. W. C. Smith have been in the habit of taking from the shop such materials as they wanted in connection with building and repairing their houses, or in upholstering? A. They have, to a certain extent.

Q. When they did so how has the account been kept; as an open entry on any book? A. Yes, sir; I have made some of those entries and some of the other clerks have made some.

Q. Will you please explain the system upon which these accounts have been kept with Governor Smith? A. No particular system, only to keep the accounts for all they had or for labor done. Every item was noted by the clerks, and then at the end of a month or six months the account is made up.

Q. Was that account made upon a slip of paper and at the end of six months sent to the General Office? A. No, sir; the account was made a regular bill, which was copied and sent in to them.

Q. Copied on the shop stock books? A. Yes, sir.

Q. Well, then, an inspection of the shop stock books will show all the materials and labor which the management have had from the shops? A. Yes, sir.

Q. And the bills are all copied on your books? A. Yes, sir. There was a few years when the car shop was kept separate,—I don't know how long—when Mr. Sessions was here, and the books were not then under my supervision, but we have those books, I think. Mr. Aldrich was his clerk; I think he kept the books during that time.

Q. Have you ever footed up the amount that stands charged to Governor Smith upon the shop stock books? A. I don't know that I ever have, sir; but the whole amount is there on the books.

Q. Will you produce your books here? I suppose it is all posted there. A. Yes, sir; they were kept as we keep various accounts; some of them are posted, but a few of the first books were kept by a copying press,—that is, we took a copy of the bills into the copying book—but I can turn them all up readily.

Q. Do I understand you that the car shop books while under the management of Mr. Sessions and Mr. Aldrich are not in your possession? A. Yes, sir; I think they are.

Q. Do those books contain any charges? A. I think they do, sir.

Q. If they do will you make up a statement of what the charges are, and also let us know about the cost of the Directors' Car, if you can get those particulars? A. Yes, sir.

Mr. Davenport stated that with reference to the iron laid on the Montreal & Vt. Junc. R. R. he was convinced from the evidence that his clients were under a misapprehension in regard to the matter. He felt quite satisfied that the iron was not received from this Trust, but that it was properly purchased.

Court then adjourned until next morning, Aug. 13th.

FRIDAY, AUGUST 18—MORNING SESSION.

Court assembled at 9 a. m.

The following statements were filed by Mr. Walker :

Statement of payments to Joseph Clark as Trustee marked "Exhibit 57."

Statement of payments to L. Brainerd as Trustee marked "Exhibit 58."

Statement of payments to Robert F. Taylor as Trustee marked "Exhibit 59."

Statement of W. C. Smith's account marked "Exhibit 60."

Statement of S., S. & C. purchase marked "Exhibit 61."

Mr. Hobart re-called by Mr. WALKER.

Q. Mr. Hobart. in reference to businsss to points below Bellows Falls over the Sullivan and Rutland Roads, I did not fully understand your statement, and you say you have a further explanation to make ?
A. My reference was in regard to business from Burlington ; that business has been sent over the Rutland Road very largely.

Q. How much shorter is it from Burlington to Bellows Falls via Rutland than via the Junction ? A. About 20 miles.

Q. You do not mean to say that business from points north of Burlington has been sent ordinarily that way ? A. No, sir, not to any extent.

Q. In the transportation of freight from St. Albans to Boston, for instance, what is the distance from St. Albans to White River Junction ?
A. 120 miles.

Q. And from St. Albans to Bellows Falls via Rutland ? A. 152 miles.

Q. So that passengers from St. Albans to Boston or from Boston to St. Albans, if taken via Rutland, would be taken 32 miles more upon the Roads of the Trust than if taken via White River Junction? A. Yes, sir.

Q. And the Boston business from points north of Burlington has been uniformly taken via White River Junction, has it not? A. Yes, sir, generally.

Q. (By Mr. Willard.) In respect to your statement yesterday as to the cost of a ton per mile for carrying freight. I understood you to say that you found it to be $1\frac{1}{2}$ cents on through freight? A. I have had Mr. Tinker pick off July, 1873, from the books and papers; he finds it to be 1 cent per ton—the year previous to that, 1 cent and $1\frac{1}{2}$ mills.

Q. And it has been falling rather? A. Yes, sir, it has had a downward tendency.

Q. Did the car service come out of that? A. That included car service.

Q. Now, in getting at that, did you estimate also the through freight brought from the West and delivered along the Line of the Road? A. Yes, sir.

Q. So that for freight delivered at St. Albans you get the same pay as for Boston freight; you have reckoned that in? A. Yes, sir.

Q. In this statement made to the Legislature for two years, where you make a statement of how many tons of way freight and through freight is carried, what do you understand is included in the way freight? A. I understand all freight originating upon or delivered upon the Central Line. For instance, freight coming from Chicago for delivery at Burlington would be way freight. Nothing is called through freight unless it goes the whole length of the Line.

Q. A car load of wheat, for instance, from Chicago to St. Albans would be entered as way freight? A. Yes, sir.

Q. But if it went from Chicago to Boston it would be called through freight? A. Yes, sir.

Q. If it was delivered on the Line of the Sullivan Road, what would it be? A. It would be considered as local freight, just the same as freight delivered upon the Line of the Central Road.

Q. Now, with reference to car service—you say this price you mention would include car service? A. Yes, sir.

Q. Do you mean that the road gets (exclusive of what it pays for car service) 1c per ton per mile or that it has to pay car service out of it? A. The calculation is made covering car service over the roads where the calculation is made.

Q. What I mean is this: That you have to pay out of this 1c per ton per mile the car service if you used the cars of other roads? A. Yes, sir.

Q. And if you used V. I. & C. cars or National Despatch cars you would have to pay car service out of this 1c per ton per mile? A. Yes, sir.

Q. (By Mr. Fifield.) You say that business, since the lease of the Rutland R. R., north of Essex Junction has usually passed over the Central instead of the Rutland Road? A. Yes, sir.

Q. That is for points south? A. Yes, sir.

Q. Have you taken any pains to divert traffic over the Central Road in preference to the Rutland? A. No, sir, it has been the other way of the two.

Q. That is, if you have ever diverted business at all it has been over the Rutland Road in preference to the Central? A. Yes, sir, our Burlington business has almost entirely been sent over the Rutland Road.

Q. How was it before the lease of the Rutland Road? A. I think we had more lumber business then in that direction than we have now.

Q. And since that lease the Burlington business has gone chiefly over the Rutland? A. Yes, sir. The business north of Essex Junction has always been taken over the Central Road—it is the legitimate line.

Q. In other words traffic has taken its legitimate course as consigned without the interference of the roads? A. Yes, sir.

Q. Have you not had instructions from the Managers to allow all business on this road to take its natural course as consigned? A. Yes, sir.

Q. Now about White River Junction—has any attempt been made to turn business over the Sullivan Road in preference to the Northern? A. No, sir.

Q. There has never been any attempt to turn it over to increase the traffic of the Sullivan Road. A. No, sir, it has taken its natural course as consigned. The business has been very largely over the Northern Road—it has always gone that way—it in the natural line from the Central.

Q. In reference to this cent per ton,—if I understand rightly—that embraces the car service? A. Yes, sir.

Q. If the cars are hired—but suppose they are your own cars? A. We do not pay car service in that case.

Q. But in the case of hired cars you have to pay the car service? A. Yes, sir.

Q. In reference to the business from Chicago to Montpelier—you would get the same rate to Montpelier as you would to Boston, would you not? A. Yes, sir.

Q. Why is that? will you tell the Masters how that happened; that is, how such a rule came about? A. That rule was established by the understanding with the G. T. R. We have what we call our Boston rates which apply to intermediate points between here and Boston.

Q. (By Mr. Walker.) When you say that traffic has taken the course by which it has been consigned, do you mean to say that the business has ordinarily been sent from points north of Burlington, via White River Junc., unless consignor or passenger has requested the other route? A. Yes, sir.

Q. (By Judge Poland.) People who bought tickets went which way they pleased? A. Yes, sir. The custom has been with us, and I think with all lines, for persons to go by the route that is naturally open.

to them. I think we have always sent passengers to Boston by way of Concord.

Q. Has it not always been the practice to send a passenger to Springfield by way of White River Junc., unless he wanted to go via Rutland? A. I think it has, sir.

Q. And from Springfield to St. Albans via White River Junction unless he asks for a ticket via Rutland? A. I am not prepared to say as to that.

Q. Do you know whether or not tickets have been on sale for the last few years, after the Rutland lease was commenced, from Essex Junction and points North of there, for Bellows Falls and points South of there, over the Rutland Road? A. I am not aware whether they are or not.

Mr C. Appleton called and sworn; examined by Mr. WALKER.

Q. Mr. Appleton, do you know if tickets were placed on sale in your office for Bellows Falls and points South of there, over the Rutland Road? A. Yes, sir, but I cannot say how long ago. I think about three years ago.

Q. But the practice has been since that time, has it not, unless passengers ask for tickets via Rutland, to give them a ticket the other way? A. Yes, sir.

Q. What is the fare from St. Albans to Boston? A. \$8½.

Q. What proportion of that goes to the Central Line? A. I don't know that.

Q. What is the fare from St. Albans to White River Junction? A. \$4 60.

Q. What is the fare from St. Albans to Boston, via White River Junction? A. \$8 50.

Q. What is the fare from St. Albans to Bellows Falls? A. \$5 60.

Q. What is the fare from St. Albans to Bellows Falls, via Windsor? A. The same price, sir.

Q. Do you know in reference to fares in the other direction; for instance, from Bellows Falls to Burlington, via the different routes? A. I do not know, sir.

Q. Have you a tariff of fares? A. I have, from this point, sir; that is all.

Q. But not from the South or Northward? A. No, sir.

Q. Mr. Davenport requests me to ask what is the fare from St. Albans to So. Vernon, by way of White River Junction? A. \$7 sir.

Q. And also by way of Rutland? A. \$7—the same price.

Q. Can you state what fare is charged from St. Johns to Province Line? A. No, sir.

Cross-examined by Mr. FIFIELD.

Q. You are Ticket Agent here, Mr. Appleton? A. Yes, sir.

Q. Were tickets prepared for the two lines—the Rutland R. R. and Central as quick as they conveniently could after the lease was taken? A. I think they were, sir.

Q. When you have sold tickets to any distant point below Bellows Falls have you asked the passenger which way he wanted to go? A. Yes, sir.

Q. And given him a ticket via the route which he wanted to go? A. Yes, sir.

Q. Did you ever persuade a passenger to go via one route in preference to another? A. Never, sir. Always asked him what Line he wanted to go by, and I always gave a ticket by that route.

Q. And you never tried to influence passengers any way? A. No, sir.

Re-direct examination by Mr. WALKER.

Q. When you say these tickets were prepared as soon as possible after the lease was taken, can you state just when that was? A. I can not, sir.

Q. (By the same.) You stated in your direct, "two or three years ago?" A. I merely thought so,—that was my impression.

Q. Well, how do you know it was as soon as possible after the Rutland Lease was taken? A. I know the tickets were got up soon after.

Q. Well, that lease was taken four years ago? A. That may be, sir, I was not positive as to the time.

Q. Can you ascertain when those tickets were put on sale? A. Perhaps I can from the report.

Q. Have you ever had tickets on sale for New York via Springfield through Rutland? A. O, yes, sir.

In answer to questions raised by the counsel for the Trustees in reference to the Bonds held by the Bondholders represented by Mr. Davenport, the latter said that those bonds were stamped according to the decree of 1866, and had the second set of coupons attached extending the time of payment.

The Bonds owned by the party represented by Mr. Walker, as he states, are in the same situation.

Mr. Walker puts in "three statements in reference to the Missisquoi Road," marked "Exhibit 62."

The Masters adjourned at 10:30 a. m., until Tuesday, August 17th and then Mr. Walker's application to the Chancellor for an accountant to assist in examining the books, was heard before Chancellor Royce Messrs. Davenport and Willard supported the application; Jud Poland and Mr. Fifield spoke in opposition to it.

TUESDAY, AUG. 17, 1875—MORNING SESSION.

The following Exhibits were filed by Mr. FIFIELD.

Cash summary, 1861 to 1873,	marked Exhibit	1 A
Cash receipts and disbursements on the Vt. Central and Vt. & Canada Roads, covering same period—1861 to 1873	marked Exhibit	2 A
Statement of cash receipts and disbursements S., S. & C. Road from July, 1862 to 1870,	marked Exhibit	3 A
Ditto from 1870 to 1873,	"	4 A
Ditto of Rutland Road, 1871 to 1873,	"	5 A
Ditto of Missisquoi R. R., 1871 to 1873,	"	6 A
Ditto of Addison R. R., 1872 to 1873,	"	7 A
Ditto of Whitehall & Plattsburgh, southern div.	"	8 A
Ditto of Montreal & Plattsburgh, 1871 to 1873,	"	9 A
Ditto of Vt. & Mass. R. R., 1871 to 1873,	"	10 A
Ditto of Vt. Valley R. R., 1871 to 1873,	"	11 A
Ditto of O. & L. C. R. R., 1870 to 1873,	"	12 A
Ditto of Whitehall & Plattsburgh R. R., northern div.,	marked Exhibit	13 A
Statement of receipts and disbursements, Treasurer's office at Boston, 1871 to 1873,	marked Exhibit	14 A
Trial balance Vt. Central and Vt. & Canada R. R.'s, to July, 1873,	marked Exhibit	15 A
Certificate of Committee of 1st and 2nd Mortgage Bond- holders of Vt. C. R. R.,	marked Exhibit	16 A
Inventory of property belonging to the Trust, July 1st, 1873,	marked Exhibit	17 A

Statement of 1st equipment loan account,	"	18 A
Ditto of 2d equipment loan account,	"	19 A
Ditto of 3d equipment loan account,	"	20 A
Ditto of 4th equipment loan account,	"	21 A
Vt. Central Guarantee Bond account,	"	22 A
Same thing of income of Extension bond acc't,	"	23 A
Vt. & Canada Stock account,	"	24 A
Statement of S., S. & C. Bonds account,	"	25 A

A bundle of Reports of the Managers and Committee to the Bondholders, from 1865, marked Exhibit 26 A

Statement of inventory of personal property and assets of the Trust in June, 1858, \$808,251 21, marked Exhibit 27 A

The book containing the the chancellor's decrees in former suits was also put in.

Mr. Fifield wishes to call attention to page 28 of the report of 1872 —said report to be found in the bundle of reports filed as "Exhibit 26 A."

It was expected that several witnesses would have been in court for examination this morning, but as they were not at hand Court adjourned for one week until August 24th.

TUESDAY, AUGUST 24TH, 1875.—MORNING SESSION.

Court assembled at 9, A. M.

The following papers were put into the case by Mr. Walker:—
Statement of proportions of loss on O. & L. C. R. R., and Northern
Transportation contracts to July 1st, 1873, marked "Exhibit 63." Pas-
senger Tariff, June 1st, 1873, marked "Exhibit 64." General Freight
Tariff, August, 1871, marked "Exhibit 65."

The following depositions were then read by Mr. Walker:—

Deposition of Frank A. Day, Boston.

" " William B. Stevens, Boston.

" " Phillip L. Page, "

Mr. Davenport then put into the case, as evidence, a bundle of bills
purporting to be for Car wheels and Castings furnished by the St.
Albans Foundry Co. to the Receivers & Managers; said bills have been
found to agree with the Statement of Car wheels and Casting already in
the case and marked "Exhibit —."

Mr. Davenport then proceeded to read from page 9 to 17 (inclusive)
of the Appendix to the Report of the Legislative Committee the follow-
ing particulars of prices paid for Carwheels and Castings by the Receiv-
ers to the St. Albans Foundry Co.:—

Six months ending Dec., '61, \$14, \$14 50, \$16 for carwheels and
from 3½ to 4¾c per lb. for castings.

In 1862, from \$14 50 to \$16 for carwheels and from 3 to 4¾c per
lb. for castings.

In 1863, \$15, \$16 and \$18 for carwheels and from 3½ to 5c per lb.
for castings.

In 1864, \$30, \$32 50 and \$33 for carwheels and 6, 6½ and 7c per lb.
for castings.

In 1865, \$30, \$32 50 and \$33 for carwheels and from $5\frac{1}{2}$ to $7\frac{1}{2}$ c per lb. for castings.

In 1866, \$23, \$26 and \$32 50 for carwheels and from $4\frac{1}{2}$ to $6\frac{1}{2}$ c per lb. for castings.

In 1867, \$25, \$26 and \$28 50 for carwheels and 5 and $5\frac{1}{2}$ c per lb. for castings.

In 1868, \$25, \$26 and \$28 50 for carwheels and 5 to $6\frac{1}{2}$ c per lb. for castings.

In 1869, \$23, \$24 60 and \$25 for carwheels and 5 to 6c per lb. for castings.

In 1870, \$24 60, and \$25 for carwheels and 5 to 6c per lb. for castings.

In 1871, same prices for carwheels as 1870 and $4\frac{1}{2}$ to 5c per lb. for castings.

In 1872, \$23, \$24 60, \$25 for carwheels and 5 and 6c per lb. for castings.

In 1873, \$23, \$24 60 and \$25 for carwheels, same prices for castings as 1872.

The following depositions were then read by Mr. Davenport:

C. W. Mosely, of Troy, New York.

Charles Gould, " "

E. H. Virgil, " "

Mr. Walker gave from page 335, Report of Investigation Committee, the price paid by the Foundry to the Receivers for old castings, viz: $1\frac{3}{8}$ cent in 1869 to 1873, and in 1868, $1\frac{1}{2}$ cent.

Mr. Davenport read from the above mentioned report the following depositions:—

E. F. Perkins, from page 294

Milton Sessions, " 299

H. P. Aldrich, " 302

John Mulligan, " 315

Eugene Putnam, " 319

H. S. Hyde, " 306

Mr. Walker read deposition of W. L. Harris, page 307.

Samuel Williams re-called.

Q. (By Mr. Walker.) Mr. Williams is there an account called Account of Stationery and Blanks? A. Yes, sir.

Q. Will you give the amount of payments shown by that account for six months ending May, 1864? A. (Referring to Ledger.) \$2,735 85 for that period.

\$2,029 86 for six months ending Nov., 1869.

4,434 73 " " May, 1870,

4,749 69 " " Nov., 1870.

Q. Have you looked in notes receivable account in ledgers E and F for the purpose of seeing whether the advances that were made to Mr. Foster prior to the purchase of the S., S. & C. Road were represented by notes receivable there entered? A. I have—they are not.

Q. To what account, Mr. Williams, was the \$65,000 paid to A. B. Foster, on Nov. 20, 1865, charged? A. Charged to his (Foster's) account.

Q. Is there any other entry upon that account except this single item? A. No, sir.

Q. And in what way is the account finally balanced and when? A. January, 1868, it is charged to the S., S. & C. Road. It is transferred, Mr. Foster's account being credited by a charge to the S., S. & C. account—I think the purchase account.

Cross examined by Judge POLAND.

Q. You do not find any notes of Mr. Foster's for this amount. A. None entered on the books, sir—it is charged to him in the first place to be accounted for and then it is re-charged to the S., S. & C. account. I don't know of what amounts the \$65,000 item is made up.

Q. If I understand rightly, this stationery account is an account of all stationery purchased for the use of all the roads? A. It is an account of all stationery purchased and used by the Trust; it includes the stationery used in all departments.

Q. (By Mr. Dennison.) Does it include account and other books? A. Yes, sir.

Q. (By Judge Poland.) So far as you know was all the stationery that went to the Sullivan Road charged to that road? A. I think it was, sir. There is one charge to that road which I deducted from the stationery account I have just read.

Q. You found a portion of a charge for stationery charged over to the Sullivan books. A. Yes, sir.

Q. I suppose that road called for what stationery they required from time to time and received it. A. Yes, sir.

Q. (By Mr. Fifield.) What was the average of your stationery expenses for 1869? A. For the six months ending November 1868 it was \$2856.77.

Mr. Walker inquired of Gov. Smith if Mr. Foster would be likely to attend for examination. Gov. Smith could not state; he believed Mr. Foster was soon going to the west of Canada on Railroad business.

Vouchers of S., S. & C. Road prior to 1871, asked for by Mr. Walker.

Gov. Smith said he was under the impression that Mr. Lucas, the auditor, had brought them from Waterloo here when he brought the books; but the only vouchers brought by Mr. Lucas were the ones Mr. Walker had already seen.

Recess until 2 p. m.

AFTERNOON SESSION.

Lansing Millis called and sworn; direct examination by Mr. WALKER.

Q. When did you enter into the employment of the Vermont Central Line so-called? A. In 1860 or '61.

Q. What was the Vermont Central Line at that time? A. The Boston, Lowell & Nashua, Concord, Northern, Vermont Central and Ogdensburg Roads.

Q. Have you continued in the employ of that line ever since or if not, up to what time? A. Up till September, 1873, I suppose.

Q. Did you have any connection up to that time with the Railroads operated by the trustees and managers? A. As a through line, sir; yes.

Q. No other connection than you have mentioned? A. No, sir.

Q. What were your duties as agent of the Vermont Central Line? A. To secure business for the roads.

Q. Make contracts for freight? A. Yes, sir.

Q. Were you employed by the trustees and managers during portions of that same period in the negotiation of their loans? A. Sometimes, sir.

Q. And the purchase of gold? A. Yes, sir; occasionally.

Q. In doing other kinds of brokerage business in Boston? A. I don't know of any brokerage business that I did.

Q. Except to negotiate loans and the purchase of gold? A. I don't know of any other business in that line that I did.

Q. Where did you, as agent of the Vermont Central Line, keep offices? A. In Boston, New York, Montreal; had various agencies at different points, in Chicago at one time, Milwaukee and Detroit.

Q. But they were all included under the term "Boston Agency" in your report of business? A. Yes, sir; that was the headquarters, the Boston agency.

Q. Reports of business of the New York Agency were kept distinct, were they not? A. They were all made as one report but the expenses were divided differently.

Q. That is they embraced a different series of roads? A. Yes, sir.

Q. What was your salary as Manager of that so-called Vermont Central Line? A. It varied from the time I commenced, I think it was \$2,500, then from that it went up to \$4,000 and staid for some time at that.

Q. When was it, it was made \$4,000? A. I cannot say now.

Q. Was there any other change prior to July, 1873? A. I think there was \$1000 added when we took on the Northern Transportation boats.

Q. The G. T. R., in connection with the Vt. Central R. R. line and Michigan Central forms the all rail, does it not, between Boston and Chicago? A. Yes, sir.

Q. Without any change of cars, of course. A. Yes, sir—that for freight there is no change of cars.

Q. That line was managed as a competing line with the line Ogdensburg and the boats on the lake, was it not? A. Previous to taking the Ogdensburg Road it was, sir. After the Ogdensburg Road was taken that route formed our water line and the other the all line, the same as the New York Central which has an all rail line also a water line from Buffalo.

Q. Then you were accustomed to make the rates via all rail line, in competition with the water line. A. The all rail rates were not as low as the water transportation.

Q. Were you not accustomed at times, even before you made arrangements for managing the boats, to take freight for St. Louis for instance by the G. T. R. at lower rates than the boats were offering? A. No, sir, not all rail. Not that I know of.

Q. Did you have charge of any passenger business in that same connection, Mr. Millis? A. Yes, sir.

Q. Selling through tickets for the West? A. Yes, sir, and for New England and Canada points.

Q. And for Montreal in this direction? A. Yes, sir.

Q. And from the West in this direction? A. Yes, sir, I did at one time.

Q. Were your services in relation to the sale of passenger tickets and the freight business all covered by the salary you have mentioned, paid you by the line? A. No, sir. I should not have staid five minutes with only that salary, I could have done better elsewhere.

Q. How otherwise were you paid? A. By commissions outside.

Q. When did you first begin to receive commissions? A. I don't know.

Q. Was it as far back as 1861? A. I think not, sir.

Q. 1865? A. Could not say for certain?

Q. 1867? A. I could not tell you, sir.

Q. 1870? It was before that, sir, but I could not tell you the year, sir.

Q. What was the nature of those commissions? A. Commissions which the roads paid me.

Q. What roads,—various Western roads? A. Yes, sir.

Q. Did you receive any from the New England roads? A. No, sir.

Q. Nothing by way of commission on the roads of the Vermont Central Line? A. No, sir, nothing.

Q. You never received anything in the form of commissions on the roads of the Vermont Central Line? A. No, sir, never.

Q. Did your commission from the Western roads apply to passenger business solely or to freight only? A. Some of both.

Q. Was this commission computed upon the business done, or upon the amount received from it? A. Well, in various ways, sir.

Q. Upon the receipts of these various roads, from the business they received. Was that it? A. Well, I could not say as to that. I don't know how it was figured.

Q. Well, you kept some track of it, did you not? A. Well, I may have done so at the time, but I have not now any particulars of it.

Q. Have you destroyed the evidence of it? A. No, sir; I never kept it.

Q. Have you lost it? A. I never had it except when it was given me.

Q. I infer from what you said that you would not have done the business excepting for these commissions? A. No, sir; I was offered more salary to leave the road.

Q. Then these commissions constituted a large part of your income? A. Yes, sir.

Q. Did you do any work for these Western roads except the consignment of business and passengers over their roads? A. That is all, sir.

Q. Did you have anything to do with keeping their accounts or statements? A. No, sir.

Q. Did you for the Vt. Central Line? A. Yes, sir.

Q. What books or accounts did you keep of the business of the Vt. Central Line? A. I merely had the reports furnished by agents and copied them and returned them to this office.

Q. What did these reports show? A. They showed the amount of freight and earnings of the road from St. Johns and Ogdensburg.

Q. Did those reports show the earnings of this road as separate from the earnings of the other roads in the line? A. No, sir; I kept nothing of that kind. I kept very few books of any kind. Mostly it was reports which I returned to this office.

Q. These reports, as I understand them to be, were reports which were made up at the different sub-offices? A. The reports sent me were copies of way-bills, and advices from the Western roads of the rates. If a man enquired at my office about his freight, for instance, we could tell by reference to the reports when it would arrive and all the particulars of it.

Q. Did you make returns to this office of the business you put on to this road going West from Boston? A. We did not of freight; we did of passenger.

Q. Did you of business coming from the West to Boston? A. No, sir; with the exception of tickets which were sold in the West when we had agencies there.

Q. In relation to these sales of tickets, Mr. Millis, were the tickets that were issued by the various roads charged to you or did you issue them yourself? A. Issued them ourselves, sir.

Q. And in your returns you accounted for the tickets you had sold? A. Yes, sir.

Q. And at the prices you had put them at? A. Yes, sir.

Q. Did you have control of the fixing of rates? A. No, sir; they were fixed by the various roads through.

Q. Have your commissions included commissions upon tickets that have been sold elsewhere than at your Boston office? A. They may have done, if the tickets were sold at offices under my supervision.

Q. For instance, supposing a ticket sold at White River Junction, would you receive commission upon such a ticket if it was sold for those lines with which you had your arrangement? A. I might have, sir.

Q. How was it with the Ogdensburg and Rutland Roads after they were leased; did you then receive commissions upon tickets sold over those roads? A. Never was much sold on the Rutland Road; and on the Ogdensburg I paid out more than I received.

Q. How was it when freight business was originated on the lines of these various Trust Roads—were you, by your arrangement, entitled to receive commissions in such cases? A. Yes, sir; I was.

Q. There was a time, was there not, when the Station Agents along on this line were allowed to receive commissions on through Western tickets from the Western roads, in increase of their compensation? A. I don't know whether that was so or not; before I was agent on the line they may have received them.

Q. But since you have had charge of the agency it has all come through your hands? A. Well, I don't know that it all has.

Q. Well, you claimed to be entitled to it, did you not? A. No, sir: I did not say that.

Q. Was there not a time when you directed those commissions to go into your hands instead of being paid to the Agents? A. I never said so to the Agents.

Q. Did you ever say so to the Western roads? A. No, sir.

Q. Was there ever such a change as that made? A. Not that I know of.

Q. Was there any change in that respect on the Ogdensburg and Rutland Roads, for instance, after the leases were taken? A. I cannot say in reference to that, sir.

Q. In what way do these through tickets from the western roads get into the hands of the various station agents on this road? A. If they received western issue of ticket they got them from the agencies of the western roads; they did not pass through my hands.

Q. And they did not appear upon your books? A. No, sir.

Q. Do you remember that at the time the Ogdensburg, Rutland and Valley Roads, etc., were taken on by the Trust that station agents on the line received a commission of \$2 or some similar amount upon tickets sold for certain of the western roads? A. Not to my own knowledge, sir. I cannot answer for other people. I can only answer for myself.

Q. Have you any doubt that that was the fact. Were you not informed that such was the fact? A. I may have been.

Q. Was you not? A. I say I may have been.

Q. Is that all you can say? A. Well, such things were only the reports of the agents. There were a great many different reports. Some say that \$5 was paid, others say \$2, while there are some who say that only \$30 was given as commission. Of course you cannot place reliance upon mere reports. I have paid \$6 dollars for commission on tickets before I was connected with this road.

Q. The question is whether there was not in existence at the time these leases were assumed an arrangement by which station agents on these various roads received a commission from western roads? A. Well, sir, I was not conversant with it, but I should not be surprised if it was so, because that was the general system throughout the country.

Q. And after those roads came under the management of the Vt. Central Line the commissions of that nature were considered as part of the receipts of your agency? A. No, sir. If they sold their tickets

for western roads, I never had any commission, unless it was on my own issue of tickets.

Q. What was your issue of tickets? A. I issued tickets over the western roads right through to California.

Q. What did you do with those tickets when you issued them? A. I put them out for sale in all the ticket offices of this management. The through business was in my hands.

Q. Then after these leased lines came under the control of the Trustees and Managers, your tickets were placed on sale at those stations. A. Yes, sir.

Q. And you received commissions on those tickets? A. Yes, sir.

Q. Was the freight business managed in the same way? A. Yes, sir.

Q. Was there any commission upon freight coming east? A. No, sir.

Q. Any commissions on passenger business coming east? A. No, sir.

Q. Now in regard to the Boston office, which was under your personal supervision, who paid the expenses of that establishment? A. The line, sir.

Q. Was there any portion of these expenses charged to the Trust as such or to this Receivership? A. Not separately.

Q. To whom did you render your accounts? A. To this office.

Q. To whom did you render your account for the share of the Concord Road? A. To this office.

Q. And it was collected by this office from the various roads composing the line? A. Yes, sir.

Q. Are you able to state, Mr. Millis, the amount of commission which you have received upon passenger and freight business originating at the offices of the Receivership Line? A. No, sir, I am not.

Q. Are you able to state the amount of such commissions which you have received in the aggregate, including the offices in Boston and subordinate offices? A. No, sir, I am not.

Q. Can you state, Mr. Millis, approximately the amount of this commission in the year ending July, 1873? A. No, sir, I cannot.

Q. Can you state whether or not the amount of this commission exceeded \$10,000 in that year? A. No, sir; I have no record of it.

Q. Hav'n't you personal records that shows the amount of cash that comes into your hands and is deposited in the bank? A. Not of that kind, sir.

Q. Can you state whether the commission exceeded \$20,000? A. I don't know, and I should not whether it exceeded \$5,000 or \$20,000. I decline to state anything in reference to it.

Q. Can you state approximately the amount of commissions taken on at the offices of this receivership? A. No, sir.

Q. Can you state for instance as to the year ending July, 1870? A. No, sir.

Q. Whether or not they exceeded \$10,000? A. I could not say, sir.

Q. Do you decline to state in reference to them? A. Yes, sir.

Q. Why do you decline? A. Because I think it is a private affair of my own—a personal matter.

Q. You claim it to be a personal matter of your own? A. I do sir.

Q. Has there been any other person interested with you in this business? A. No, sir; I don't have any partners.

Q. Has there been any other partners entitled to receive any share of these commissions during the time you have received them? A. No, sir—excepting what I have paid out.

Q. You mean by way of expenses simply? A. Yes, sir; in various ways to secure business.

Q. Have you paid anything to anyone connected with this line to secure business? A. Not a dollar, sir.

Q. Is there any person connected with this line who is entitled to part of these profits? A. No, sir.

Q. (By Mr. Dennison). Do you employ sub-agents? A. In some cases, sir.

Q. (By the same). Do you employ them and pay for them out of your own funds? A. Yes, sir.

Q. Were not your sub-agents generally charged on the accounts of the Line? A. Regular agents were.

Q. I understand your expenses of the Boston agency for 1873 was in the neighborhood of \$40,000. Did that include all the agencies? A. I suppose it did, sir.

Q. Were there any agents employed by you that year whom you paid yourself? A. I could not tell you, sir; I think there were some.

Q. In what way did you pay those whom you employed—salary or commissions? A. In various ways. I could not tell you; these are private matters.

Q. Where were those agents located, in the East or West? A. At various places. Sometimes it is necessary to employ business men to secure this business. I think I have some knowledge of the matter, and I would not mention their names at all under any consideration.

Q. The question that was started by the Master had reference to the employment of agents by you for the sale of tickets and freight in different points. To what extent have you employed and paid parties which has not been charged to the Line? A. I could not tell, sir. Those are my private matters and I shall mention nothing about them.

Q. Is there any person in the State of Vermont who has been under your personal pay? A. No, sir.

Q. Then, so far as business has originated in Vermont, upon which you have received commissions, it has been performed by the agents of Receivership? A. Yes, sir.

Q. (By Judge Poland). Mr. Millis, suppose you sold a ticket from Boston to Milwaukee, would the Central Line, as you call it, get their full share of the amount? A. Yes, sir, they would.

Q. (By the same). And you got no commission from them. You received your commission from lines beyond Chicago? A. Yes, sir;

my commission came out of the balance after this Line had received its proportion.

Q. (By Mr. Davenport). You have testified, Mr. Millis, that you placed your tickets, which extended over the Western roads, in the hands of the local agents of the roads of these Receivers and Managers? A. Yes, sir.

Q. Now, suppose you placed in the hands of the agents at Montpelier a ticket for San Francisco; he sold that ticket to Judge Poland, who paid him for it,—and suppose the commission you would be entitled to from the Western roads was \$5, would the Trust get any portion of that \$5? A. No, sir.

Q. It would all go into your pocket? A. Yes, sir.

Q. You would be entitled to receive it all if that was the amount? A. Yes, sir.

Q. Now, suppose you made a contract with a Montpelier party for the transportation of a lot of freight to Chicago. After that freight got off this line you would have a commission from the other roads beyond this, would you not? A. I did not say so, sir.

Q. Well, you did have Western freight on which you received commissions? A. I did, but I did not say what roads.

Q. You did receive such commissions, did you not? A. Yes, sir, I did.

Q. The Montpelier agent would transact the business and you would get the commission on the freight? A. Yes, sir, but this road would get its regular portion.

Q. But it would not get anything for what the agent at Montpelier did? A. It would get the business.

Q. But it would not get any of the commission, would it? A. No, sir.

Q. Mr. Millis, in the case of the sale of tickets from Waterbury, for instance, to San Francisco, who would receive the money for that passenger? A. The agent at Waterbury.

Q. Where did he remit it to? A. To me.

Q. What would you do with it when it came into your hands? A. I would report it to this office, pay their proportion and remit the Western road theirs.

Q. Was business done in that way prior to 1873? A. Yes, sir.

Q. In what way would the agent remit to you? A. By express I suppose.

Q. And then you divided the money out to this road and the roads West? A. Yes, sir.

Q. But you paid no compensation to these agents? A. No, sir.

Q. (By Mr. Dennison.) Did you remit to this office for passenger fares, any more than the amount which properly belonged to the line from Boston to St. Johns? A. No, sir.

Counsel for bondholders requested the Masters to instruct the witness to answer the questions put by Mr. Walker as to commissions received from tickets sold, and freight taken at the agencies of the Receivership.

The Masters were of opinion that such commission was a private arrangement of Mr. Millis', and in that view declined to instruct him to answer the questions in relation thereto.

Examination by Mr WALKER continued.

Q. Mr. Millis, you say some of your tickets were sold by station agents on this line who remitted to you at Boston? A. Yes, sir.

Q. Were any statements of such remittances sent accompanying the money? A. There were only the reports, sir.

Q. How often were those reports sent in? A. Once a month.

Q. From every station agent who had made such sales? A. Yes, sir.

Q. And you say a distribution was made between the Vt. Central Line and the Western Roads, and a statement of such distribution was sent in here. Did you keep those statement on files in your office? A. They were at that time, sir.

Q. Where are they now? A. I don't know, sir.

Q. Where was your office at that time? A. Boston—5 State Street—then at 7 State Street—and at the building under the bank.

Q. Did you keep a set of books of that business? A. Nothing except the reports which were made.

Q. And those you say you think are there now? A. Well, I suppose they are there, but we closed up everything two years ago.

Q. Now, when a shipment of freight was made from an agency of this Trust, did they send you a copy of the way-bill? A. In some cases, sir.

Q. In what way did you ascertain particulars of such shipments? A. By copy of the way-bill.

Q. Did you have any means of collecting your commissions then? A. If the road made up a statement and gave it to me I did, if not I did not.

Q. If the roads made up a statement and made up your commission they sent you such statements, did they not? A. No, sir, not always.

Q. Was not that the usual practice? A. No, sir.

Q. Would they send you a check without any statement? A. Yes, sir.

Q. Was not that in cases where you sent up your statement asking for remittances? A. No, sir.

Q. Didn't you make up statements showing the amount you claimed for commissions? A. No, sir.

Q. Did you ever go through their statements to see if they were correct? A. No, sir; I left it all to them.

Q. They sent you a check monthly without an accompanying statement? A. Yes, sir.

Q. But in some cases you say they furnished statements—are such statements as they did furnish you, in existence? A. I cannot say that they are, sir.

Q. Did you have a contract with the roads which allowed you commissions? A. No, sir.

Q. Were they verbal contracts? A. Yes, sir.

Q. With whom were your verbal contracts made? A. I not tell you, sir.

Q. Was there any memorandum made by you in relation
A. No, sir; I have not any memorandum.

Q. Was the freight commission at a uniform amount?
sir.

Q. Was it on a different percentage at different times
cannot say, in reference to that; it was never on a percentage

Q. Upon what basis was it arranged? A. I could not
what way it was made up.

Q. Was it a gratuity that was sent you from time to
That was a private arrangement of my own. I will tell you
which will probably be of interest to you—the higher the rat
the commission. And let me further say, that on cheap freig
received any commission.

Q. Well, where did you draw the line, that is? A.
you to find out, sir,—you cannot find it out from me.

Q. Do you decline to answer? A. Yes, sir; I do, dec

Q. Did you keep a cash account? A. Not of that bus

Q. Did you keep a Bank account? A. Yes, sir.

Q. These monies received by you for business taken o
Central Line, and for the business taken over the western
kept by you in a single account? A. Yes, sir.

Q. Where did you keep that account? A. At the G
the last few years.

Q. Before that where? A. At J. W. Davis'.

Q. He subsequently failed, did he not, and the line allow
amount of money you had deposited in their hands? A. N
sir.

Q. Allowed you some of it did they not? A. Yes,
seven or eight thousand dollars.

Q. Whether J. W. Davis paid you any interest on the a
you kept with him? A. No, sir; not that I recollect of.

Q. Are you sure they did not? A. I don't recollect the
sir.

Q. Was that an incorporated bank? A. No, sir.

Q. Did their business go into bankruptcy? A. I do
sir, whether they did or not; there was nothing of it.

Q. Do you know where the books of that concern are?
not, sir.

Q. Where is the cash book that you kept of your l
Boston? A. It is in Boston.

Q. Were you in the receipt of any commissions of the
mentioned from the G. T. R.? A. The Vermont Central re
benefit.

Q. I asked if you received any. A. No, sir; the
received the benefit of those commissions.

Q. Did the G. T. R. pay commissions to you and you
paid them to the Vt. Central? A. No, sir. They had a

ment by which the G. T. R. allowed 10 per cent. towards agency expenses.

Q. For business originating on each road? A. Yes, sir.

Q. Did the Michigan Central pay you a commission? A. I decline to say: that is a private arrangement of mine, and one which no road would have made with a corporation.

Q. Except the G. T. R.? A. That was another thing, sir; the Michigan Central ran another line entirely—so do other roads in the West.

Q. In issuing these tickets to various points in the West, where were the tickets printed? A. Some of them in Boston, some in New York.

Q. Were they printed under your control? A. Some of them were.

Q. Did you furnish the tickets? A. Yes, sir.

Q. From whom did you obtain your instructions as to the rates? A. They were made up from the list of rates furnished by the different roads.

Q. Was the proportion of the Vt. Central line in all cases the same, at the same time, through the same points? A. Pretty much the same, sir.

Q. Was there any discrimination made for instance in the different lines to St. Louis, at the same time that they varied in the rates West?

A. All the Western Roads varied the rates at times, sir, but the variation with us, if any, was very slight.

Q. Did it make any difference to the Trust upon which of the various routes to St. Louis the tickets were sold at any time? A. No, sir.

Q. The share from St. Johns to Boston was always the same? A. Yes, sir.

Q. I mean always equal in proportion to the rates? A. Yes, sir.

Q. Then if one Western Road had a cheaper rate than another, I understand you to say that it would not affect this road. A. No, sir. Sometimes there may have been a competition in Chicago but that would not affect our rates here.

Q. Well, when there was a rate made the proportion of this road was pro rata. A. No, sir, it was specific.

Q. What was the proportion of the Vt. Central line upon business to St. Louis? A. I cannot tell exactly. I think after paying off the roads West of Detroit the amount was divided pro rata with the G. T. R. and us.

Q. In what way was the proportion of the roads west of Detroit received? A. In the same way as we divided.

Q. So that it made no difference to the roads west of Detroit whether they sent their business by Montreal or Albany, they received their charges just as the same? A. Yes, sir.

Q. And what was left was divided between the G. T. R. and your line. A. Yes, sir.

Q. So that the amount that your line would receive would vary with the gross sum received for the ticket? A. It did not in all cases,

sir. The rates did not change with us, they changed with those ~~was~~ and our rates were made to correspond with any reduction or advance as the case might be. For instance, suppose our charge to Detroit ~~was~~ \$18 and the rate from Detroit to Chicago was \$8 $\frac{1}{2}$, then our rate should be \$26 $\frac{1}{2}$ through. If that rate should be reduced on the Michigan Central \$2, and there was no reduction east of Detroit, we should still get just about the same to Detroit as we did before, but if, in consequence of reduction by the line via the New York Central, our rates should be reduced right through then we should each bear a proportion of the reduction. For instance, if it was reduced to \$24 the Michigan Central receives, we will say \$7, leaving \$17 for the line this side of Detroit. If the rate should be reduced by the New York Central to \$22, and the Michigan Central only received \$6, then it would leave us \$16, so that our rate would be reduced to \$16 and theirs to \$6.

Q. The point of my inquiry was supposing there were two routes from Detroit to Chicago and one of them made a rate to Boston of \$20 and the other of \$30, whether the Trust would receive the same in either case? A. They would not make any such rates.

Q. Well that is only an illustration—say \$22 and \$24—how would it be in that case? A. We should allow the Michigan Central their proportion of \$24 and we should take the balance.

Q. And so in the other case? A. Yes, sir.

Q. (By Judge Poland.) That is, you divided with the G. T. R. according to your distance. A. Yes, sir.

Q. In remitting to the Western Roads the amount received upon the sale of tickets issued by you and sold by the agents of the Trust, your remittances and statements in that case were monthly. A. My tickets were all reported together, sir—not separate.

Q. Who were they reported to? A. To the various railroads west.

Q. They were separated among the various roads I suppose? A. Yes, sir.

Q. And each report was made monthly. A. Yes, sir.

Q. And your commission was deducted in all cases. A. Not in all cases.

Q. Were they in some cases? A. I don't recollect that they were.

Q. Your statements would show I suppose whether they were or not. A. Yes, sir, I suppose so.

Q. Did you keep copies of those statements? A. I cannot tell you, I have not seen the books for about two years, sir.

Q. You kept letter books, I suppose. A. Yes, sir, we did.

Q. Do I understand you to say, Mr. Millis, that you have kept no memorandum or record in the form of an account or in any other form of the amounts you have received in the shape of commissions? A. Yes, sir, you understood me correctly.

Q. Are you willing to furnish from your books, statements of the amount of tickets that have been sold at the agencies of this Trust, issued by you? A. That can be found out here, sir.

Q. Are you willing to state what amount you received as commission on tickets that have been thus sold? A. No, sir—it is a myth—it would be a very small amount.

Q. Would the very small amount you have received on tickets and freight, sold and originated at the offices of the Trust Roads, amount in the year 1872 to \$5000? A. I would not swear to any amount.

Q. Then you are not willing to swear it was less than \$5000? A. Well, yes, I am.

Q. Are you willing to swear it is less than \$2000? A. Yes, sir.

Q. Are you willing to swear it is less than \$1000? A. Yes, sir, I would.

Q. Would you swear it was less than \$500? A. I think I would sir. I will swear it is less than \$500, and should sooner think it did not amount to \$300.

Q. Are you willing to say that for the year 1871 the amount you have received for commissions upon tickets sold and freight taken at the offices of this Trust were no larger than in 1872? A. I think I would, sir.

Q. You think it would not exceed \$300. A. That is my opinion.

Q. Are you willing to say it did not exceed \$200? A. Well, I don't wish to swear positively.

Q. How about the other years, would they average higher than '71 and '72? A. I think probably they would estimate higher than the years before.

Q. Have you ever made any comparison, Mr. Millis, of the amount of business that went to the West over the Rutland and Valley Road before the lease, to that received upon the same road after the lease was taken, I mean passenger business? A. No, sir, I have not.

Q. Reports were published I suppose of the business? A. Yes, sir; but they say nothing about Western business. I have only read some reports as to what it cost to run the Rutland Road before we took it.

Q. Are you willing to say, whether or not \$2 00 was the amount paid by some of these Roads upon single tickets, as commission? A. I am not willing to say anything in reference to that; I should think you could judge yourself that it was not \$2 00 a ticket when I have said it was not \$500 per year.

Q. In what way was the ten per cent. commission which the Trust obtained from the G. T. R., received,—did it pass through your Agency or in to the account between the Trust and G. T. R.? A. The ten per cent. was upon business that came off this road.

Q. (By Judge Poland.) And they paid no share of the expense of your Boston Agency? A. No, sir.

Q. Now, Mr. Millis, as to receipts for commissions upon business done by you at Boston—Are you willing to say that those amounts did not exceed \$500 in 1873? A. I shall not say anything about it, sir.

Q. Are you willing to allow us to see your books and papers in Boston, for the purpose of ascertaining what we can on the subject?

A. Well, I will decide that hereafter. I don't think this Court wants me to say anything about my private business.

Q. Who were the Managers of the Vt. Central Line? A. Mr. Stark, Gov. Stearns and Gov. Smith.

Q. At what time did they assume such management? A. Ever since I have been connected with the road.

Q. How often have you known of their meeting together as such managers? A. They used to meet pretty often, sir.

Q. How many times do you think they met in 1870? A. I could not say how many times they met; they used to meet formally in Boston quite often.

Q. Mr. Millis, you are president of the National Car Company? A. Yes, sir.

Q. The Vermont Iron & Car Company has been consolidated with the National Car Company, has it not? A. I believe it has, sir.

Q. Are the books, etc., of the V. I. & C. Company now in the possession of yourself and your subordinates? A. I don't know whether they are or not, sir.

Q. It is true, is it not, Mr. Millis, that in the matter of Western bound freights from Boston, your rates have been five or ten per cent. less than the rates of other Lines? A. Yes, sir; when the rates have been high, they have.

Q. Do I understand you to say that it would be impossible to ascertain from your books—cash books or bank books, or otherwise—the amount you have received for commissions in any instances? A. Yes, sir. I have not means of telling from any books.

Q. Does not your cash book contain a statement of the source from which cash received was derived? A. I do not think it ever went into the cash book—if it did, it was into my private cash book.

Q. Mr. Millis, will you furnish from your books and papers, so far as you are able, a statement of the commissions which you have received upon freight business transacted through the offices of the Trust? A. I will furnish you all I can, sir.

Q. Will you furnish from your books and papers, and according to your best judgment, a statement of the commissions which you have received as part of your compensation as Agent of the Vt. Central Line?

Question objected to and put in another form, as follows:—

Q. Will you furnish from your books and papers, and from your best judgment, a statement of the amount of commissions which you have received upon business transacted through the offices of the Vt. Central Line? A. No, sir; I decline to do so.

Q. (By Judge Poland.) Were the expenses of this Boston Agency increased in any way in consequence of your selling tickets and doing this business on commission? A. No, sir; it was reduced.

Q. (By the same.) Did this commission business interfere in any way with your performing your duties as Agent for this Central Line? A. Not at all, sir; I have given the best part of my life to this Line.

Q. So far as you know, the selling of tickets by Agents on this Line did not interfere with their duties as Station Agent? A. No, sir.

Q. Did your taking this commission agency increase the business of the Line? A. Yes, sir; both passenger and freight business.

Q. Did this Line receive its full compensation according to its rates, on freight and passengers going through to the West? A. Yes, sir.

Q. Would you have got this commission if you had sent by any other Line? A. Yes, sir. I could have sent it via New York Central Line, but I never received a dollar commission on anything that went to any other Line. I could have made \$2, \$5—even \$7 or \$8 apiece on other tickets, than via this Line.

Q. Then your endeavor was to send both passengers and freight via this Line of road? A. Yes, sir, always; and I have paid out large portions of my commission for the benefit of this Line of Road. I could show by a statement of my business connections that I did not come to Boston empty-handed.

Q. In procuring freights to go over this road, did you always endeavor to get the highest market rates for freight through? A. Yes, sir; the very highest.

Q. And you got as good prices by this line as could be obtained by the other lines? A. Yes, sir; and there was a time when our line averaged better. When this line was opened up via Ogdensburg and the boats it was claimed by Mr. Otis Kimball and also by the Managers of the line that from 5 to 15c less rates per 100 lbs. could be given by that line than by the B. & A. R. R. Still it was a longer route by way of Ogdensburg, and the time was longer. In view of that fact, and also in consequence of the insurance being higher, this line had to adopt a system of a reduced rate from the B. & A. line rate. If they did not do that they would not get a pound of business. Of course, when the Boston & Albany reduced their rates this line was under the necessity of reducing theirs. But as the line developed from time to time and the G. T. R. was made through to the West, the through all rail line was established. At first, however, the G. T. R. was in a very disorganized state—the through freight suffered great detention, freight being sometimes two and three and four weeks on the way to Chicago; in fact the line was really in no condition to do the business, which almost came to a stop. I don't remember whether it was before or after the National Despatch line was started, that this road had a good many meetings, and interviews was had with the B. & A. Road with reference to the rates. They—the B. & A. R. R.—finally agreed that they would charge a certain rate and allow this line a certain difference—that is, allow this line to quote something less; however we never seemed to be successful. Finally the Managers directed me to make our rates the same as that of the Erie and New York Central Roads. I did so, and agreed to stand by that rate (which was, I think, \$1 80 to Chicago) for two weeks, even if we did not get a pound of freight. We used every exertion we could to get freight, but our tonnage ran down to not a single ton per day. Men would come and inquire of me the rates; I would give them \$1 80 to Chicago, \$2 20 to St. Louis—they would laugh and go away. I would say, "I can ship your goods by the Sarnia Line of steamers at \$1 50 to Chicago, and at \$1 85 to St. Louis against \$2 20 by the other line and probably you will have to pay 10c insurance." Still that would have no effect—they would not listen to such rates. I stood it as long

as I could, and my wife not being well I went to Saratoga. The night I got there I received a telegram, "Three hundred barrels of sugar marked Merchants' Express, mark has been changed for freight to go by other line." This convinced me that the other line were not standing to the rate they agreed upon. I went to Boston by the next train, and when I arrived there the next day I made the first independent rate, that was through to St. Louis. I called on the B. & A. people and enquired how the rates stood, they said all right; I told them I did not think so. I said to them, "I wish to notify you that the agreement which was made a fortnight ago, and which I have faithfully lived up to comes to an end to-day." They wanted I should wait until they heard from Mr. Bliss who was then at Springfield. I said, "No, you have not kept to the arrangement in good faith—I am well satisfied you have been giving cut rates." I told them the circumstances of the freight being changed as I have told you, and I said that that convinced me that they had broken faith, and before 12 o'clock that night I closed a contract with every boot and shoe house in St. Louis, and I had the biggest train of freight that ever went over this line—and we have held that business ever since. It was a first class business—we could not get first class business by the water line, the insurance was so high. From that time we began to get more business. Finally this M. D. Line came up with changeable gauge cars. One of these cars was made as an experiment and was considered successful. It was very evident that such a line of cars was urgently wanted, and the proposition was made from the railroads—not from the Car Company—to have these cars built and put on the line, to be paid so much per mile. That is how that organization came about. The rates have always been such as to secure the business to this line, but it would be impossible to sustain the same rate out of Boston by this line that could be given by the Boston & Albany.

Q. (By Mr. Davenport.) Why so? A. Because this route is longer than the B. & A. Suppose a man in Chicago sells 1,000 bbls. of sugar in the Boston market; If he sells them on time—say five days—and they should be ten days on the way, if prices fell he would lose his profit. As I told you, the route over the G. T. R. is long, and we cannot make such good time; in consequence of that it is absolutely indispensable that we should give a lower rate than the other Line. The Boston & Albany R. R., last October, conceded that fact, feeling it was to their interest to do it, and that they would not be the losers by it.

Q. (By the same.) That is, you are not in competition with them unless you are some ten per cent. below them? A. Yes, sir. The percentage we had under their rate varied from ten down to four per cent.

Q. (By Judge Poland.) You have always got the best rate you could? A. Yes, sir.

Q. (By Mr. Davenport.) What price are you now carrying freight from Boston to Chicago at? A. I understand this enquiry is only to 1873.

Q. You have brought your history of the rates, etc., down to last year, and now you can perhaps tell us at what rate you have been carry-

ing first class freight, since last October—since you made this arrangement with the B. & A. R. R.? A. Their rate was 75c and ours 65c.

Q. Have you received 65c per hundred pounds, for carrying freights since then? A. Not all the while. The Baltimore & Ohio came in and made a break in the market on the lower classes of goods, and cut them down. The competition commenced in Chicago between them and the Pennsylvania. We had to follow in the way of rates.

Q. Well, what is the lowest price you have charged for the transportation of first class freight between Boston & Chicago? A. My opinion is 35c.

Q. What is the distance from Boston to Chicago? A. Something over 1100 miles—1132, I think.

Q. What do you call first class freight? A. Dry Goods and Boots & Shoes are first class.

Q. What class do sugars belong to? A. Special—that is, lower than first class.

Q. What price have you carried sugar at between Boston and Chicago? A. 16c.

Q. At the time you came from Saratoga to Boston and made the rate with the St. Louis houses, what rate did you make? A. \$1 25 per 100 lbs.; that was a good rate—it was \$250 per car. The distance from Boston to St. Louis is in the neighborhood of 1400 miles—I think a little under.

Q. How many tons of Boots & Shoes constitute a car load? A. I have seen 10 tons, 6 tons and 8 tons in a car. The Merchant's Dispatch always get in over 10 tons to a car.

Q. What is the rate now on sugars to St. Louis? A. I could not tell. I have not seen the rates advertised lately.

Q. (By Mr. Walker.) How do your freights in this direction correspond with the rates of the other Line? A. Generally about equal. On grains the rates are intended to be the same.

Q. (By the same.) What is the class of grain? A. 4th.

Q. What is your relation to the Mount Mansfield Hotel Company? Nothing, sir.

Q. Are you a stockholder in it? A. No, sir.

Q. Ever have been? A. No, sir.

Q. Have you held any office in that Company? A. I think I was treasurer; and I have an idea that Mr. Brown assigned some stock to me, but I don't recollect distinctly.

Q. For how long were you treasurer? A. I don't recollect.

Q. (By Mr. Fifield.) They say you received some commission, Mr. Millis, for selling some equipment bonds, what is there of that transaction? A. I sold some \$500,000 of the 1st equipment loan bonds in 1865 or '66 I think, which I did in addition to my ordinary work. I was very often at work until midnight.

Q. (By Mr. Davenport.) Were you at work for the line then? A. Yes, sir. When I got through with selling the bonds they gave me \$2500 for doing it.

Q. What is the usual commission for selling bonds? A. All the way from $2\frac{1}{2}$ to 5 per cent.—some Western bonds have been sold at more, I understand.

Q. Was it hard work to sell those bonds? A. Well, it cost some talking, sir. I would not do such work again for that sum.

Q. Do you mean to be understood that the usual amount for selling bonds is from $2\frac{1}{2}$ to 5 per cent.? A. Yes, sir. I do not mean selling them at a broker's board, I mean for selling bonds that have not been on the market before.

Q. Then when you have a new loan to unload upon the people you think the commission should be from $2\frac{1}{2}$ to 5 per cent. A. Yes, sir.

Q. And it would not make any difference, I suppose, if the bonds were good or bad. A. Well, I think it makes a great difference.

Q. What did you get for the bonds? A. I got par.

Q. Did it take much talking to get par? A. I should think it did, sir.

Q. Do you think if the Boston & Albany wanted to put \$500,000 bonds on the market that they would have to pay $2\frac{1}{2}$ or 5 per cent. for selling them? A. Well, I think a line like the Portland & Ogdensburg would have to pay perhaps more than that for doing it.

The following documents were put in by Mr. Willard:

Statement of 1st equipment loan sinking fund, marked Exhibit	66.
“ 2d “ “ “ “	67.
“ 3d “ “ “ “	68.
“ 4th “ “ “ “	69.
Balance sheet up to 1st June, 1872,	70.

Court then adjourned until next morning, Wednesday, Aug. 25.

WEDNESDAY, AUGUST 25, 1875—MORNING SESSION.

J. M. Pinkerton called and duly sworn, testifies:

Examined by Mr. DAVENPORT.

Q. Where do you reside Mr. Pinkerton, and what is your occupation? A. I reside in Boston; my occupation is that of a lawyer.

Q. Are you a holder of any of the securities of the Vt. Central or & Canada, and if so to what extent? A. I am. I am a holder of mortgage bonds, 7700 in my own right, and 1500 as trustee, and I signed in the consolidation scheme as trustee for \$20,000. That consolidation scheme was a scheme to convert the first mortgage bonds preferred stock of the Central Vt. Railroad, and the second mortgage bonds into a common stock of the C. Vt. R. R.

Q. What is the largest amount of securities in the Vt. Central and Canada Railroads which you have held in your own right since

A. I have got some trust securities, I have got of the Chambly \$60,500, in the equipment bonds \$6400 and in the extension bonds I do not own any in the Canada company.

Have you ever been an owner of stock in the Vt. & Canada

any? A. I have.

When did you dispose of it? A. In 1869.

Have you ever been owner of any of the second mortgage bonds

C. R. R.? A. Yes, sir; at one time \$2000, and then again of \$1500.

When were you last owner of any of the second mortgage? since '64 or '65; perhaps '65.

Have you ever been owner of a larger amount of the first mortgage bonds of the Vt. C. R. R. than you are now in your own right?

A. Yes, sir. I was owner in 1868 of 57,000 and some odd hundred dollars. I disposed of most of those, except what I now hold, in 1868.

Q. When were you appointed a member of the committee of bondholders of the first mortgage bonds? A. I think in 1864.

Q. When were you first appointed, I mean? A. It was under the compromise decree of 1864 that I became a member of the advisory committee; I have been a member since then.

Q. Where were you elected such committee, and where was the meeting holden? A. Holden in Boston. A large number of the bondholders were present. I could not say how many.

Q. Can you recall the names of any person and if so will you give them, who were present at the meeting at which you were elected a member of that committee? A. I can remember Estes Howe, Judge Hebburn, of Pennsylvania, and a large number of Philadelphia parties, whose names I cannot remember. I can remember, I think, Jas. W. Murray; there was a large number, but I cannot recollect them all now.

Q. Was there any record kept of the proceedings of that meeting?

A. Yes, sir; it is in Boston.

Q. In whose custody? A. I think in mine.

Q. Who was the clerk? A. I don't know who was the first clerk.

Q. Have you in your possession any record of the subsequent proceedings of the bondholders at the various meetings? A. Yes, sir: of all the meetings.

Q. When was the last meeting held? A. In November, 1870.

Q. Can you tell who was present at that meeting? A. I could not recall, sir.

Q. When was the last meeting before November, 1870? A. 1869.

Q. Were there yearly meetings of the bondholders up to 1870? A. Yes, sir; those meetings were called by the committee.

Q. How were the bondholders notified of the meeting? A. By advertising in the Boston Post and Advertiser.

Q. Will you produce for the inspection of this Board of Masters the record of the proceedings of the bondholders, which you have in your possession? A. Yes, sir.

Q. Who fixed the compensation you were to receive for your services as auditing committee? A. The Bondholders, at their meeting.

Q. Is that in the record? A. Yes, sir.

Q. At what meeting was that fixed? A. I think it was in 1864.

Q. Has there been any action taken in that matter since? A. I think not, sir.

Q. If there has I suppose it will be on the record? A. Yes, sir. I think you will find by the records that it was fixed at \$750 per annum, but at one of the subsequent meetings—I don't recollect whether at my suggestion or at the suggestion of the committee—it was fixed at \$500.

Q. Is there anything in those records which defines your duties as advisory committee? A. No, sir.

Q. From what source did you obtain your powers, as you understood it? A. From the Decree, with the general understanding that

he committee should contribute their services as they should be needed generally.

Q. Your understanding is that your powers as advisory committee are derived from the Decree of the Court of Chancery and from the authority conferred by the Bondholders? A. Yes, sir.

Q. What authority has ever been conferred upon you and Mr. Drury by vote of the Bondholders? A. No authority except the one referred to in the decree. They acted under that decree.

Q. Has there ever been any express authority conferred upon you at any meeting of the Bondholders to approve of the Rutland lease? A. No, sir, there has not.

Q. Have you ever had any authority from the Bondholders to assent to the Ogdensburg lease? A. No, sir.

Q. Have you ever had any authority from the Bondholders to assent to or ratify the purchase of the S., S. & C. Road? A. With reference to that, there was an informal meeting of Bondholders at the Revere House, Boston, a large delegation being present from Philadelphia, and the matter of the S., S. & C. Road was discussed with reference to a loan, in view of the purchase of the road. At that meeting I opposed it, but at the second meeting—informal meeting—the opinion of the Bondholders was that it was the best thing to do it, and that the Receivers should retain the earnings of the road to make and pay for the purchase; and that the 1st Mortgage Bondholders should receive the S., S. & C. bonds for their coupons for 1867—the first year; and, also, that the Second Mortgage Bondholders should receive the pay for two coupons on their bonds, on condition that they should purchase at par ten per cent. of the amount of the whole issue of the First Mortgage; that is, \$150,000, and pay cash. That arrangement was made at this informal meeting. The Receivers were advised and the Committee were justified in assenting to that purchase; and, moreover, they may be said individually to have assented to it by taking the S., S. & C. bonds in payment of the S., S. & C. coupons. The whole of that issue was taken up by the First and Second Mortgage Bondholders in payment of coupons and in cash paid in.

Q. Is there any record of this informal meeting holden at the Revere House? A. I don't know whether there was or not.

Q. Did that transaction take place before you were appointed a member of the advisory committee? A. No, sir, afterwards; it was in 1866 or '67 I think.

Q. Have you stated the only action that was ever taken by the bondholders to your knowledge in the way of advising or approving of the purchase of the S., S. & C. Road? A. Yes, sir.

Q. Did you approve of that purchase as one of the advisory committee? A. Yes, sir, I think I did assent to it.

Q. Did you assent to it by virtue of your general powers as one of the advisory committee or because of what you understood to be the sentiment of the informal meeting holden at the Revere House or both? A. Both.

Q. Would you have assented to it but for that informal meeting?

A. Well, I don't know what I would have done, but, as I remarked at

the time, I was not in favor of it, still as in subsequent instances where there was an unanimous opinion of the Receivers, as well as it was the opinion of the Directors of the Canada Compaey, why I consented to be overruled.

Q. Then you allowed yourself to be overruled wherever the Receivers and the Directors of the Canada Company differed from you in opinion? A. No, sir.

Q. What do you mean when you say, "as in subsequent instances," when you was overruled by the Receivers and the Directors of the Vt. & Canada R. R.? A. I mean that if I alone differed from my associates on the committee, that my opinion might perhaps not be right and I deferred to the weight. If I am one of several and they all think different from me, I may be wrong and I defer to the majority. At the time it was the general sentiment, I believe I was the only one who spoke against it.

Q. How was that informal meeting notified? A. I do not remember, now; but it was so notified that there was a large delegation from Philadelphia.

Q. How were they notified, by publication in the papers you mentioned just now? A. I think not.

Q. How then, by correspondence? A. I think so.

Q. Did you have before you, or under your care, a list of the mortgage bondholders at the time? A. No, sir.

Q. Had you ever such a list? A. No, sir; I think not. The bondholders were changing from day to day.

Q. Did you know at the time that you advised the purchase, or the issuing of the bonds of the S., S. & C. Road that the Road had been operated by the Receivers since 1861 or '62? A. No, sir.

Q. Had you any knowledge that the Trust had been loaning to Asa B. Foster large sums of money, before that time? A. With reference to your prior question, the purchase of it had been discussed and talked about some time before the matter was brought up, and we were aware that negotiations had been going on for some time.

Q. Were you aware that that road had been operated at the expense of the Trust by the Receivers of this Trust for a number of years before the time that this purchase was made? A. No, sir; I think not.

Q. Had you or not, Mr. Pinkerton, knowledge that the Trust had been making loans of its money to A. B. Foster, the constructor of the S., S. & C. Road? A. Yes, I think we had; and that loan to him was put in as part payment of the purchase of the road.

Q. When did you find out that such a loan was made? A. Well, some time before the matter came up; it may have been a year or two before, perhaps more.

Q. And how large an amount did you understand that loan was? A. I don't remember now.

Q. Did you approve of the loaning of the funds of this Trust to A. B. Foster? A. It was done without our knowledge. When we found that it had been made we thought it was with a view to the purchase of the road. It should be stated here, with reference to the in-

formal meeting of the Bondholders, that the Receivers considered it of great moment to get possession of that road, so as to prevent connection by the Passumpsic R. R. with it and the G. T. R., which was contemplated by Foster, and which, if it was effected, would prove a serious calamity to the Central Road. That is how it was argued.

Q. Was that the same calamity which has overtaken the road lately—a junction with the Passumpsic? A. It was, as I stated, to prevent the line being formed which would dry up the business of the Central.

Q. Well, that line has been formed, notwithstanding the purchase, has it not? A. No, sir, I was not aware that it had.

Q. When did you first understand that the Trust had become a creditor to A. B. Foster? A. Well, I cannot say we learned of it before the purchase, and we were informed that it was with a view of controlling that road.

Q. Did you learn that these loans had been made until they were made? A. No, sir.

Q. Did you learn the amount of those loans? A. We might have been informed probably at the time, but I don't recollect now.

Q. At what time? A. Well, I cannot fix it definitely now.

Q. You say "at the time," do you mean at the time the loans were made? A. No, sir; I mean subsequent.

Q. And you were informed that these loans had been made by the Receivers with a view to accomplish the purchase of the road? A. Yes, sir, and the control of it.

Q. Well, you understood that the object was to get Foster in debt, did you not, so that they could control the road? A. That was the inference, I presume.

Q. Did you infer from what the Receivers told you that such was their purpose? A. We inferred that they wanted to get control of the road.

Q. What did Gov. Smith and his associates say to you as to the purchase, for which that amount of money was paid to Foster? A. As far as I remember it was with the view of getting control of the road and preventing this junction.

Q. Now at the time that knowledge came to you they had advanced the money to Foster; were you also informed the amount of those loans or advances? A. I think we were according to my best recollection, but I should not want to say definitely the amount of the loans, because it is so indistinct in my mind, I could not give a definite amount.

Q. Give me the best recollection you have. A. Well, it might have been a couple of hundred thousand dollars—perhaps more—but that is only as my memory serves me; I am not sure of the figures.

Q. Whether you were informed that it was enough to accomplish the purchase of that road? A. I think not, sir.

Q. What did you understand from the Receivers that this road would cost the Trust? A. My impression is \$400,000.

Q. Does that include the outstanding mortgage that there was upon it held by the English bondholders? A. I think it was understood that \$400,000 was to buy the stock and bonds of the road.

Q. That is to buy the whole road? A. Yes, sir.

Q. Is it your understanding, to-day, Mr. Pinkerton, that that road has not cost the Trust but \$400,000? A. Well, I don't know that more has been paid for it.

Q. Have you ever approved of any expenditure beyond the \$400,000? A. I think there was some addition made on the road for traffic.

Q. The Waterloo Tramway, do you mean? A. Yes, sir.

Q. Will you state whether you have approved, as one of the advisory committee, of any expenditure beyond \$400,000 for the purchase of the S., S. & C. Road? A. No; there has been no formal assent or approval, I think.

Q. Did you approve, before it was done, of the construction of the Waterloo Tramroad, so called? A. No, sir; not before it was done.

Q. Did you hear anything about until after it was done? A. We heard about it before it was finished, and we made some investigations in regard to it. We were informed that there would be a land grant of something like \$10,000 of timbered land, government land. We investigated it, and Mr. Shaw, the former roadmaster of the Northern Road, thought it was a good thing and that he should like to take it, and said if we took that road that he would like to have the timber on it; furthermore, there was a probability of the extension of that road, or rather, by the charter they had the power of an extension, which if done would make the S., S. & C. Road very valuable; and, furthermore, it ought to be said in reference to the S., S. & C. Road and the purchase of it that it has a very valuable grant of running into Montreal, and in view of all the facts it was considered a very advisable thing for this road to do.

Q. Am I to understand from your answer that you did approve the Waterloo Tramroad, or that you would have approved of it? We did not approve of it at all, beforehand, but while it was in course of construction; as I said, Mr. Shaw represented to us that he would like to take the part of that road, if he could have the land grant, and under circumstances we did not object to it, certainly.

Q. Was it in consequence of what you learned from Mr. Shaw you did not object to it? A. Yes sir.

Q. Was any authority ever conferred by the bondholders meeting holden for that purpose, upon your advisory board to approve of the arrangement of the receivers and managers by which the ante-dated the payment of the interest on the Missisquoi Railroad? A. No, sir.

Q. Did you, Mr. Pinkerton, as one of the advisory committee approve of the receivers' guaranteeing the payment of the interest on the Missisquoi bonds? A. No, sir.

Q. As one of the advisory committee of the bondholders ever examined into the accounts of the Swanton branch of the V. Canada Road? A. No further than the books show.

Q. What books? A. The ledger, and the accounts under that head.

Q. Do you know, or have you ever taken any steps to inform yourself whether the money received by Joseph Clark and Gov. Smith from the trust to build the Swanton branch was appropriated to that purpose?

A. No, sir.

Q. As one of the advisory committee did you ever call upon Gov. Smith and Mr. Clark to show what they did with the money which they received from the trust to build the Swanton branch? A. No further than the ledger accounts.

Q. The ledgers do not show what was done with that money, do they? A. No, sir, it only shows that it was drawn from the Trust.

Q. As one of the advisory committee did you ever approve of the arrangement under which this Trust has been operating the M. & Vt. Junc. R. R.? A. No, sir.

Q. As a member of the advisory committee have you ever taken any steps to ascertain where the funds came from which built that road? A. No, sir, that was outside of our business.

Q. As a member of the advisory committee did you approve of the sale of the sleeping and drawing-room cars owned by the Trust to the Pullman Car Co.? A. No, sir.

Q. As one of that committee did you approve of the distribution of the stock, taken in payment for those cars, among the Receivers and other officials of the road? A. I did not.

Q. Did you know what Pullman Car stock was selling at in Boston at the time that these Receivers took it? A. I did not. I have an impression—but I am not positive—that it was above par. I don't know how much above.

Q. As one of the advisory committee did you or not approve of the contract which the Trust made with W. C. Smith and John Gregory Smith, either or both, to supply the Trust with carwheels and castings?

A. With reference to that, the committee investigated matters when Mr. Taylor was on the committee and Joseph Andrews—we thought the rates were too high. Mr. Taylor consulted with a Foundry Co. in Philadelphia, we corresponded with people in Springfield and Troy and other places where such business was done, and the result was that we revised the prices here I think. The conclusion we came to was that we could afford to pay something higher here than was charged at other points, because there would be no freight to pay, and another reason was that we had the foundry here on the spot, which we considered a great advantage in case of breakages or in case of any emergency. That was in 1867 I think. The prices were revised chiefly by Mr. Taylor who was a thorough business man and acquainted with that department.

Q. Up to 1867 nothing was done to your knowledge by the advisory committee in revising those prices? A. I think the matter had been gone into pretty thoroughly by Mr. Drury, and then it went along until '67 when the matter was taken up by the committee.

Q. Have you taken any steps in the matter since? A. No, sir, only as we looked over the accounts to see the prices.

Q. Have you since then ever instituted a comparison between prices paid the St. Albans Foundry Co. and those paid by others for carwheels and castings? A. No, sir.

Q. Did you know at the time of the investigation that Smith or Gov. Smith or both were receiving a royalty of \$3 upon 33 inch wheel, \$2 50 upon 30 inch wheels and \$2 upon 28 inch wheels? A. We understood there was some arrangement by which they were to receive some advantage from the good will of the Foundry Co. We did not know the prices.

Q. Did you know that they received from either the St. Albans Foundry Co. or the Trust \$3, \$2 50 and \$2 on wheels and ½ cent per lb. of castings furnished to the Trust? A. I don't know the details. We understood it to be a compensation paid them from the good will of the Foundry Co. The main thing for us to consider was whether we could get the castings cheaper anywhere else, and that was the conclusion as I have told you.

Q. But if you had known there had been such a royalty upon them or not have approved of it? A. Well, it would make no difference to us if we were getting the wheels as cheap here as we could get them elsewhere. I don't see that we had anything to do with a matter that was a private arrangement of theirs.

Q. When did you first learn that such a "royalty" was there? A. I never heard about any "royalty" before.

Q. Well, when did you first hear that the sums of \$3; \$2 50 on wheels and half a cent per lb. for castings were paid to W. C. Smith or J. G. Smith by the St. Albans Foundry Co., or by this Trust? A. I do not know that I ever heard it definitely. I heard there was some arrangement by which they were to receive some benefit from the business, but what the details were I don't know.

Q. Did you not learn, Mr. Pinkerton, during the time this matter was before the investigating committee, what the price paid and received? A. No, sir.

Q. And did you not testify before the Legislative committee you never heard of it until that time? A. No, sir; I think I don't think I testified upon that subject before the Legislative committee.

Q. When did you first have knowledge that there was a service fund connected with this management? A. I never heard of it until some investigations here that Mr. Brooks had charge of, about a year ago.

Q. Did you inquire of the receivers what that fund was and set apart for? A. No, sir; for I did not know it existed.

Q. Had you known that it existed would you have approved of it? A. I think not, sir.

Q. Do you now, as one of the advisory committee, know Gov. Smith has done with the money? A. I do not. I have no way of telling you.

Q. As one of the advisory committee do you deem it necessary to have a Secret Service Fund? A. I do not.

Q. Do you know of any use that the funds of this Trust can be legitimately applied to which may not be known to the public? A. No, sir.

Q. Mr. Pinkerton, what interest had you in the Vt. I. & C. Co.? A. I subscribed for one hundred shares for which I paid \$5000—one half of the par value.

Q. Do you still own the shares? A. I do; but that company has been consolidated with the National Car Co.

Q. What dividend did you receive up to the time of the consolidation? A. Ten per cent. on the par value.

Q. What interest had you in the National Car Company at its origin? A. I had fifty shares.

Q. Did you continue owner of those shares until the consolidation? A. I did; at that time I had ninety shares.

Q. What did they cost you? A. 50c, 75c, 80c and 100c on the dollar. I paid 50c on the dollar on the first fifty shares. It was with great reluctance I took the fifty shares. Mr. Millis was organizing a through line to Chicago and he thought it would be a favorable thing, but I did not. It was a mere experiment; it might work and it might not—and if it did not work it was good for nothing. I had a poor opinion of it and did not think it would pay. The cars would have to be scattered all over the country—and to show you how scattered they were, I will tell you that in going to California two years ago I found one of them at Omaha, and coming back, I saw one in Western Missouri. But to go back to the matter—the experiment seemed to work better than was expected, and I took the National Car stock in perfect good faith to help the Road; not that I wanted it, for, as I have said, I have a poor opinion of it—and I have not a very good one now. The life of a car is not more than seven years, at the best—then your capital is gone to renew the rolling stock, and I shall be very much mistaken if the stockholders do not find some day that their capital is entirely eaten up in that manner. Then, another thing—the value of the cars depends upon contracts; if they slide from under you what is your stock worth then. Even now, the price of the original contract has been reduced from time to time. I am not familiar with the inside workings of this Car Company any more than you are, but if things go the same as they generally go in some companies of this kind—how much of this dividend comes from debt made, I don't know.

Q. When you invested in the V. I. & C. Co. had your reluctance been overcome? A. I will tell you about that. The committee, with the Receivers, as well as representatives from the lower roads, were invited to go to Ottawa to see the mill owners there. At this time the mill owners there wanted to put their lumber into the market planed and dressed, instead of sending it in the rough down to Burlington and other places. For this purpose cars were required, and the mill owners promised to furnish any amount of freight. The Ottawa R. R. also said they would extend their road up into the mill at a cost of \$200,000, if cars could be had. That was the origin of the V. I. & C. Co., and thinking the cars would benefit the road, I took stock in it; but if I had supposed in any way that the V. I. & C. Co. was to be a burden upon

the roads, I should have been more reluctant than I was to take the National stock. I was careful to make some enquiries about the matter and I was told that the rates which were going to be paid for the use of the cars would be such that the Trust would get some profit on the car service from the lower roads.

Q. Did you know, Mr. Pinkerton, that the V. I. & C. cars were to be made at the shops of this Trust? A. Yes, sir.

Q. Did you know the price they were to be manufactured for? A. I think it was to be \$850.

Q. Did you investigate and ascertain what other railroad shops would charge for the construction of the same cars? A. No, sir, I did not; I was told at the time that it could be done cheaper.

Q. The Trust at that time was in good credit, was it not? A. Yes, sir.

Q. And had been borrowing money from year to year for the purpose of increasing its equipment stock, had it not? A. Yes, sir.

Q. Were you aware that at that time the Vt. Central Road had a higher number of freight cars than any other single track road in the country, of the same length? A. I don't know that I ever instituted any comparison. It is probable that they did have, but I think the Boston & Albany—which was a single track, in part—had a larger number of cars.

Q. You don't know for a fact that this road had a better equipment than any single track road in the country? A. No, sir; I have never instituted any comparison.

Q. Did it occur to you to inquire at the time, if it was advantageous to the car company to have these cars built at the shops, here? A. Well, as I said those cars were intended to run in this lumber business. I suppose it was advantageous to have them built here.

Q. If it would be advantageous to the V. I. & C. Co. can you tell me why it would not have been advantageous to the road to build its own cars and operate them? A. It had not funds enough to do so.

Q. There was no difficulty in obtaining funds was there? A. No, sir.

Q. Then you understand the reason this car company was organized was because the Trust was unable to furnish its own cars? A. Yes, sir.

Q. As one of the advisory committee and in behalf of the bondholders whether your assent was ever asked for and obtained to the granting a list of passes furnished annually to the people in the State of Vermont and elsewhere not connected with railroads? A. No sir.

Q. Did you ever see that pass list? A. No, sir.

Q. Had you any knowledge of the extent to which the use of this road was given away to persons who desired to ride over it? A. No, sir.

Examination of the same witness by Mr. Walker.

Q. In relation to these car company contracts, whether or not you were informed by Gov. Smith that there was a provision allowed the Trust to take the cars at a valuation? A. Yes, sir; I think that was embodied in the contract.

Q. And you looked upon that as a protection to the company? A. Yes, sir.

Q. Did you ever read the car company's contracts? A. I cannot remember now; I don't think I did.

Q. The Trust also had the right, had it not, to build additional cars for the National Car Company, which that company could take at a valuation? A. Well, I don't know about that. There was no connection between the National and V. I & C. Co.

Q. Did you know that the roads contracting with the National Car Co. had the right in case that company refused to contribute an additional supply of cars, to build such a supply of cars as they needed? A. Yes, sir.

Q. And that the National Car Co. could afterwards take those cars at a valuation from the road building them? A. I don't know as to that.

Q. How often did you examine the books here? A. Three or four times; perhaps six times yearly.

Q. How often did you put your mark of approval upon the books? A. At the end of every six months.

Q. Upon what books did you put that mark? A. Upon the cash book.

Q. And upon the book of which the vouchers were shown you? A. Yes.

Q. Did you, in going through the cash book, compare the entries with the vouchers? A. Yes.

Q. And you did that in the case of every book, and all the vouchers that you examined? A. Yes, sir.

Q. And you put your mark of approval on the cash books you examined, every six months? A. Yes, sir.

Q. In reference to the S., S. & C. Road, Mr. Davenport omitted to ask whether the contract of the purchase made between Mr. Foster and the Trustees was shown to you, or exhibited to the bondholders' meeting? A. I do not remember that it was.

Q. Do you know if the purchase price was named in the contract? A. My impression is that it was about \$370,000 or nearly \$400,000. I don't know whether that amount was in gold or currency.

Q. Did you understand at that time, Mr. Pinkerton, that the contract provided for a general release of all advances to Mr. Foster, and of all claims against him in addition to the purchase price stated in the contract? A. I don't know, sir.

Q. Did you know that the Trust paid Gov. Smith and Joseph Clark, personally, for the supplies of shop stock, etc., on hand on that road at that time? A. I don't remember how that was.

Q. Did you understand that the Trust had paid John G. Smith and Joseph Clark for wood, ties and lumber purchased from that on the previously? A. No, sir.

Q. Do you know the price that was realized by the Trust to the \$25,000 of Missisquoi bonds, which they took in payment of their co-operation against that road? A. No, sir.

Q. Did you know that there was a balance of monies expended by the Trust upon the construction of that road which has never been refunded in any way to the Trust? A. I know there was a balance, due from the Missisquoi road to the Trust.

Q. And that is carried on to the books in that form? A. Yes, sir.

Q. Did you know of the investment of \$50,000 in the Northern Transportation Co., and approve of it before it was made? A. Not before it was made; it had been made in connection with the lower roads, and I think with the Ogdensburg Road, before we knew it.

Q. Were you spoken to in reference to making the contract for the operation of the boats and the formation of a sinking fund, &c., before it was done? A. I think we were not consulted, but we knew the negotiation was going on; we were told that it was of importance to secure the through line, and not let it go from the line as it was of the utmost importance to the Ogdensburg Road and the through line; on those grounds I think we assented to it.

Q. And it was upon the reports of the managers and upon your understanding of the views of the lower roads that you approved of it? A. Yes, sir.

Q. Did you make any personal examination of the business? A. No, sir.

Q. Did you have any reason to suppose there would be a loss of \$8,476 on that contract before July, 1872? A. No, sir. I don't suppose we should have approved of it if we had.

Q. Did you ever know before of the amount of loss on the boat contract? A. I never knew the exact amount, I knew it was a loss.

Q. Did you ever know how the proportions of that loss was borne by the Trust and the lower roads? A. I suppose it would be on a mileage basis.

Q. You did not understand that it was in proportion to the amount of business that came to the Trust and the lower roads respectively from the boats, did you? A. No, sir.

Q. Did you understand that under your powers as conferred by the Decree of 1864 you were entitled to represent the bondholders and conclude them in the approval of this contract? A. I don't quite understand your question, sir.

Q. Being appointed advisory committee in respect to the management of said roads and property, was it your intention, in approving the N. T. Co. contract for the management of their property, to conclude the 1st and 2d mortgage bondholders of the Vt. C. R. R.? A. We had no intent any farther than the authority conferred upon us in the Decree. We gave our assent so far as it would go.

Q. And it was the expression of your judgement upon the representations made to you. A. Yes, sir.

Q. And I suppose it was the same with respect to other contracts and enterprises. A. Yes, sir.

Q. With reference to the M. & Vt. June Road, were you consulted by the Trust to take the time the arrangement was made for the running that road embodied in a division of the gross receipts? A. We were not.

Q. How long was it before you ascertained the existence of that arrangement? A. I don't know when we discovered the way in which it was being run; we raised objections to the terms.

Q. When did you first know that in the new arrangement, as it was carried out, that the Trust were to provide for the road repairs of the M. & Vt. June R. R.? A. I don't recollect. I supposed the Trust was to keep the road in repairs as it was in their hands. That was one reason why we objected to the terms. We considered then that the only way to arrive at a just and fair lay of division was to refer the matter to some railroad men. The only thing we could do was to give them notice that, as Receivers, they ought to hold to the receipts until it could be settled how the division should be made.

Q. Do you know what the proportion of expenses to earnings is upon the other roads of the Trust? A. Somewhere about 25 per cent., I think. About that.

Q. Did you ever assent to the fixing of the price of \$50,000 as a fair rental of that road? A. As far as I was concerned I objected to that amount. I objected to the valuation of the road as put by Gov. Smith. I was willing to its being fixed at \$50,000, providing the Receivers at that time, or Gov. Smith, or Mr. Clark would put in the Sullivan R. R., but they would not do that.

Q. Then, if I understand you rightly, you did not finally and fully assent to the \$50,000 arrangement? A. Well, there might have been an informal assent to it, but I am not aware of any written agreement of that kind. Still, I won't be positive about it.

Q. Is it your opinion that \$50,000 is a fair price, or too high a price for the rental of that road? A. Well, I think it is rather high.

Q. Did Gov. Smith or Mr. Clark ever furnish you with any statement of the cost of that road? A. They showed me a memorandum made up of loose figures:—it was not a formal statement.

Q. Do you know what became of that memorandum? A. They never furnished me with the memorandum or a copy.

Q. What was your understanding, Mr. Pinkerton, in relation to the distribution or use made of the \$93,000, being the one-half of the net earnings for the last year of the Receivership? A. I suppose it is held in abeyance. I don't know what was done.

Q. You don't know that it was credited to Smith or Clark in account? A. No, sir.

Q. Did you ever understand or were you ever informed that that sum, or so much of it as was necessary, was to be set apart to pay the \$56,000 borrowed from the Northern R. R.? A. No, sir.

Q. In reference to the investments made of the Trust monies, Mr. Pinkerton, in the stock of the Welden Hotel Co., St. Albans; Mt. Mansfield House, Stowe; Waterbury House, &c., did you approve of those before they were made? A. I should like to explain that matter. It was thought advisable to have certain houses of entertainment on the line of the road, so as to draw summer traffic. I was urged individually to take stock and I did so to help the thing along. In reference to the Welden House here—the Bondholders by a vote, and by co-operation with the Receivers, wanted an excursion in 1864 and a large excursion was

organized of four or five carloads of security holders ; they came up here to see the road. They also went to Stowe, I think, at the time they came here. I think the Welden House was very nearly finished. The chief purpose they had in that excursion was I think to look over the S., S. & C. Road. Messrs. Smith and Brainerd at that time wanted the bondholders to take stock in this hotel here, and I think some of the gentlemen took some, and I believe they all wanted the Trust to take some, and about \$8,000 was taken by the Trust in this Welden House. Finally the Welden Hotel Co failed and was about to be disposed of. A new Company was formed, I think, and the subscribers to the old Company were urged to take some of the new stock, by Mr. Brainerd. He was going to take largely himself because he believed it would be a good thing. The question then arose whether the Trust would take some stock in the new Company ; and, in view of having a house like the one in question, here, with reference to Sheldon Springs and other points round here, we thought it advisable that the Trust should take stock in the new Company, and we approved of it.

Q. Then do I understand you that you approved of it before it was done ? A. No, sir. We agreed to the taking of the stock because the bondholders had taken stock. We understood it to be the wish of the bondholders that the Trust should take the stock.

Q. How was it with the Mansfield House ? A. They took stock in that, as I did myself, to help it along.

Q. Were you made aware of the loan to the Woodstock R. R. ? A. No, sir, not until it was made. But, when we knew of it we did not object to it.

Q. Did you ever express any approval of it ? A. No, sir. We understood the loan was made to the road to assist it and prevent union with the Northern R. R.

Q. How about the Mount Washington R. R. ? A. We did not know anything about that until after it was done. I believe this road did not do any more than the other roads in the Line. We thought it to be the interest of the Trust.

Q. In relation to the Sullivan R. R., did you ever compare the ratio of expenses of operating that road with the ratio of the expenses of operating other roads ? A. No, sir, that was an outside matter. We had several conferences with regard to that road. We thought we ought to have the benefit of it. Before that road was taken it was in the hands of Mr. Eldredge, to whom we advanced money, and who did not pay to us our balances, which he should have handed over. We thought it would be a good thing if we could get hold of that road, but at that time we were informed that Peek and Tracy had stated that the Trust could not take the lease ;—they advised against it at all events. It was necessary it should be in the hands of some parties connected with this road to ensure an outlet for the business of this road by way of the Cheshire and Fitchburg. When the Trustees took the road we got Mr. Merrill, whom we considered a most reliable man, to make up an estimate of the cost of running the road and the repairs, &c., so that the Central Road should not be out of pocket at all with reference to the use of its rolling stock by that road. We told the Receivers they could not

make a profit out of it as they were acting as Trustees. Still, that road was not the property of the Trust, only they were using the Central rolling stock and section hands.

Q. Do I understand you that in the outset you claimed that the income of this property should have been accounted for to the Trust? A. No, sir, I do not make that claim because the road does not belong to the Trust.

Q. Did you ever personally investigate the manner in which these expenses were apportioned? A. I did not because I would not be competent to do it. I had perfect confidence in Mr. Merrill.

Q. Has it ever been called to your attention that the ratio of your expenses during the whole term of the running of that road was 35 per cent. while on the other roads it was from 20 to 25? A. No, sir. I should have thought there would have been a difference in favor of that road because it did not have any staff to support or anything of that kind, or any other expenses which, if it was running itself, it would have.

Q. Do you know why it should not contribute to the expenses supporting the staff? A. Well, that should be reckoned in with the expenses of that road; I think it has been.

Q. Do you know that in one year the proportion of expenses to net earnings was between 47 and 48 per cent? A. I did not know it ranged so high as that.

Q. Do you now see any reason why the Trust could not have made the lease in its own capacity, in the light of subsequent events? A. In the light of subsequent events I do not see but that they might have done so.

Q. Did you know that at the time of the renewal of the lease of the Sullivan Road, in 1864 or '65, that the owners of that road objected to making the lease to the Trust as such? A. No, sir, I do not.

Q. Did you know that that question was then under consideration? A. I do not think I did; still, I think I remember now that the Sullivan Road did so object, on the ground that they wished to retain the advantage which they had; and it was so serious to the advantage of the Northern R. R. and so disadvantageous to the Central Road that it was thought there must be a road made on the Vermont side.

Q. The question is whether you know that at the time the question of the form of leasing the road was under consideration, that the Northern R. R. objected to making the lease to the Trust, because they thought they would get a better security for their rents otherwise? A. I don't recollect about that.

Q. Did you approve of the expenses incurred before the Legislature, and other expenses in connection with the Eastern Vermont R. R.? A. Yes, sir; that is we knew about it and thought it an advisable thing to do. It was very important that we should have another outlet for our business than only the one which the Northern Road tried to keep us to.

Q. Did you approve of the expenses in regard to the Western N. H. R. R.? A. Well, there was no distinct approval. We considered it was apparently to the interest of the Trust as against the Valley Road.

Q. Then you considered it a proper expenditure of the Trust funds did you, to watch over the schemes of other roads, wherever they might be, and engage in such enterprises as seem proper to thwart them?

A. That is just what is being done all over the country.

Q. You think there is no difference between the management of the monies of a Trust and of a corporation and its monies? A. Well, there are two ways in which a road like this might be run. I think I would run up and down as a receiver, and let it go, even if my business should dry up; but I fear I should not be justified in such a course. This line of road has got to keep step with the community, if they don't the Legislature will give other outlets and charters to other roads, and the thing will drop to pieces. It is one of the inevitable concomitants of railroads; it is a thing that is being fought out in all directions. A railroad has to keep up with the times; if you stand still in railroad business it is all over with you. I could name several roads which have been at a large expenditure in protecting their trunk lines.

Q. The question is whether in your capacity as member of this committee in the exercise of your own personal judgment, you treated the business in that way? A. It is a thing which must inevitably be done. My own views have been as conservative as possible, yet I think it is urgently necessary that a line should look to its own protection. Suppose a junction was being made by the Passumpsic R. R. with the G. T. R., which would have damaged this road on the east, and then with a formidable formation making on the west by the Rutland Road, and the line on the other side of the lake, up to Montreal and the West, if the Central Road did not take any action in the matter, where would it have been?

Q. The question I asked you was whether in your capacity as a member of the committee, you have taken that view, and so given your approval upon those reasons? A. Generally, sir; yes, to protect and guard the road.

Q. When did you first learn that the amounts received for the mail service on the roads running into Canada were paid by Mr. Foster?

A. I never learned it until recently.

Q. Have you kept track of the rate of compensation which Mr. Cheney, or Cheney, Fisk & Co., or the United States & Canada Express Co. have paid per mile for the use of the facilities of this road? A. I have not.

Q. When did you first learn of the manner in which the Pullman car stock was distributed—I mean the stock received for the cars sold to that company? A. I think within three months after it was done.

Q. Do you mean after the entries were made on the books? A. Yes, sir.

Q. That is a matter to which your written objections have been directed, is it not? A. Yes, sir.

Q. Whether your attention was ever called to the payments of salaries to the secretary and treasurer of the Vt. Central R. R.? A. No, sir. With regard to our objections, at one time we made a list of the items which we thought should be rectified.

Q. What did you do with that list? A. I sent a copy to the receivers.

Q. I ask the Receivers to produce that list..... Do you remember any of the matters to which your objections were directed, Mr. Pinkerton? A. I could not give any distinct account of them.

Q. Did you approve of the sale of the income and extension bonds at 90 per cent.? A. No, sir; we were not consulted with reference to the amount, that was after a general meeting had been held in Boston in Sept. or Oct., 1872.

Q. Do you think the price was fixed at which these bonds should be disposed of? A. I have an impression that the special committee may have determined, but I don't know. I think that subject was brought before a special committee—I don't think it was considered by our committee.

Q. In examining the vouchers do you remember one for \$7,500 paid for a personal injury upon the Sullivan R. R.? A. Yes, I know about that, I remember that Mr. Drury was particularly careful in that matter—he called to see Mr. Wilbur in Boston to see that the amount was rightly charged. The amount was charged all right in Boston and we presumed it would be charged all right here.

Q. And you did not ascertain whether it was charged against the Trust or against the Sullivan Road? A. Well, we thought it would be charged all right as Mr. Drury had been so particular in instructing Mr. Wilbur.

Q. And when you went over the vouchers here did you see that voucher or not? A. I don't recollect seeing it. We were rather thrown off our guard by the attention that had been given the matter by Mr. Drury.

Cross-examined by Mr. FIFIELD.

Q. You were one of the advisory committee prior the compromise decree of 1864. A. There was no advisory committee at that time; there was a committee of bondholders, I was in that first, then I went out, and then there was another committee. I resigned at one time.

Q. Were you not a member prior to '64? A. No, sir; I was a member of the general committee. I went off of the committee for two years.

Q. In your examination of the vouchers, did you not examine what are called the journal vouchers of the Trust? A. Well, we looked from the cash book up to the journal whenever any item in the cash book referred to a journal voucher we looked at that voucher, but our principal examination was of the cash book to see the accounts of receipts and disbursements of the Trust monies.

Q. And you examined such books as was necessary to determine that matter? A. Yes, sir.

Q. Now, in addition to that, Mr. Pinkerton, have you not from time to time looked over the books which are kept in respect to the leased roads? A. No, sir; but the general results would come into the cash books we examined.

Q. Now, since you were appointed a member of the committee, by the decree of 1864, you say the bondholders have had annual meetings at your call, down to Nov., 1870? A. Yes, sir.

Q. How were those meetings attended? Were there many bondholders present? A. Yes, sir; quite large numbers.

Q. At those meetings did you make reports? A. No, sir.

Q. Don't you remember one in 1865? A. No, sir.

Q. (Showing book to witness.) Is not that one of your reports? A. Yes, sir; I had forgotten that.

Q. Now, was not a report made to the bondholders showing how matters stood each year? A. No, sir, not by us; that was done in the report of the Trustees.

Q. Well, those reports were laid before the bondholders, were they not? A. Yes, sir.

Q. Did the Trustees at those meetings explain to the bondholders their transactions for the prior year? A. Yes, sir—in detail.

Q. And answer any questions put? A. Yes, sir.

Q. Did you ever know them to answer otherwise than truthfully? A. Never, sir.

Q. I understood you to say, Mr. Pinkerton, that in 1864 four or five car loads of bond holders came up to examine the road? A. Yes, sir—in '64 or '65.

Q. And they went also to examine the S., S. & C. Road? A. Yes, sir; I think they had two excursions.

Q. Was the subject of the purchase of that road discussed among the bondholders at that time? A. I suppose it was from the fact of their going over to examine it.

Q. Did they not go over it with that intention? A. I think they did, sir.

Q. You say there was another excursion of bondholders? A. Yes, sir; I think there was another, some time afterwards.

Q. Well, now, was it not stated in a general way to the bondholders, before these excursions and at the meeting at Boston, that the advances had been made to Foster with a view to get possession of the road? A. I don't know whether a statement was made about the advances—it might have been.

Q. The general purpose of the Managers in trying to get the S. & C. Road was satisfactory, was it not? A. Certainly, it was, sir; I think I have said so.

Q. Now, you say you had no authority from the bondholders to assent to the Ogdensburg lease or the S., S. & C. purchase; you mean by that, do you not, that you had no special authority from the bondholders, at any meeting for that purpose? A. Yes, sir; that is what I mean.

Q. But you had all the authority you could have under the decree? A. Yes, sir.

Q. How extensive was this informal meeting at the Revere House? A. It was a largely attended meeting—there was a large delegation from Philadelphia.

Q. Did it represent a majority of the bondholders, in your judgment? A. I should think it might.

Q. Was there not, at about the same time, a meeting of the Vt. & Canada for the purpose of considering a further issue of bonds to the amount of \$300,000, to retire a certain debt which had been made in the name of the first compromise? A. At that time it was agreed all round that the capital of the Canada Company should be called \$2,000,000, by which means they would retire their back rent; then there was a further amount of \$170,000, which was to be paid in cash, and to be due in two or three years. The question was the ways and means of raising the money to pay that balance; I think enough was to be raised to pay that balance and buy this S. S. & C. Road. There was a meeting of the Canada Company, with a view to carry out this transaction of the issue of a further equipment loan. A petition was signed by the Receivers and approved by the Canada Company through their committee, and on the strength of that petition application was made to the Chancellor to authorize the issue of the S. S. & C. bonds and of this equipment loan. However, that did not seem to succeed—then there were talks about negotiations with the Rutland Road. At the request of some of the bondholders a meeting was called, and I think this consolidation scheme was brought up—it was thought that would do the work; but it has failed all along and that is one reason why there has not been a meeting of bondholders since 1870. I should have been glad to have had one to be relieved of this situation. From the time I first took hold of this thing, I have done work which perhaps I was not called to do. At the time the distribution of funds was made to the first mortgage bondholders there was a certain set of coupons which certain parties claimed they should be paid; they asked for an injunction and got one. I went and defended the suit which was heard before Judge Poland, at St. Johnsbury. The appeal was taken before the Supreme Court at Montpelier, and I came and argued the case there. For these services I never made a cent, though had I charged some of the fees usual in railroad cases, I should have received a handsome allowance.

I have loaned the Trust various amounts from time to time, for which I have received one per cent less interest than was paid to other parties. Now, with regard to Mr. Drury—he has spent nearly all his time in the business of the road; as Mr. Wilbur knows, Mr. Drury has been more in the Boston office than any one of the Receivers,—examining books, etc. I imagine Mr. Drury's whole business has been to attend to this concern, and his office has been the rendezvous of all the bondholders in Boston.

Q. (By Mr. Davenport.) What have you to say about the \$56,000 which is charged to the M & Vt. Junc. R. R.? A. The history of that is this:—When this road from Swanton to Highgate was being built, as the Rutland Road was going to have the benefit of the trade, it was proposed that they should contribute \$50,000. Gov. Smith and Mr. Clark went in and took stock in that road. Before the amount was paid by the Rutland Road, Thatcher, the Manager of that road, died, and the new management declined to contribute. The committee took it up and said as the Rutland Road had failed to pay that \$50,000, there is no

reason why that should not be charged to the Junction Road; we brought it out from the account and had it charged, and if you will notice, there is an entry on the margin to keep it there.

By Mr. Walker. Q. Do you think it is rightly charged as it now stands—don't you think it should be charged to Clark and Smith? A. I would rather have it charged to the road than to them. The money went in to build the road, the road has been earning money and there is no reason why the M. & Vt. Junc. Road could not pay the money and the interest on it that has been paid to the Northern Road.

Q. When did you discover that the \$50,000 had been charged to the M. & Vt. Junc., or to Smith and Clark? A. I could not say with reference to the time.

Q. Was it known to you before the time of the Legislative Committee? A. Yes, sir; two or three years before.

Q. Was any correction made of it before that? A. Yes, sir; we got Mr. Merrill to put it right. With reference to that road—the receipts for the first two years, I think, were taken by the Receivers and not divided at all. Then, when the interest account was made up there was a mistake made in it,—they got interest on the whole—we had that corrected.

Q. Any other errors that you have had corrected? A. I remember there was a matter of a loan to the Northern Pacific R. R. which stood open some time, which we did not like. At the time the Gov. was connected with the N. P. R. R., I think, a loan was made to that Road, and it stood open a long time, but eventually, I think, it was charged up correctly. I think it was charged to the Governor.

Q. Did you require him to pay any interest? A. Yes, sir; seven per cent.

Q. And you think the books show he was charged that interest on that money? A. I should think they do; at all events it was adjusted.

Q. Did you cause any correction to be made whereby Governor Smith was charged with supplies taken from the car shops? A. I don't remember.

Q. Have you given all the errors that you think of? A. All that occurs to me at this moment.

Q. (By Mr. Davenport.) Will you send here, the book containing the records of the bondholders meetings, Mr. Pinkerton? A. Yes, sir, I will forward it when I get back to Boston.

Otis Drury called and sworn;

Examined by Mr. DAVENPORT.

Q. Where do you reside and what is your occupation? A. I reside in Boston; I am entirely out of business now—formerly I was engaged in the cotton business.

Q. At the time this receivership closed in 1873, July 1st, what securities of the Vt. Central and Vt. & Canada Roads were you owner of? A. I had some 1st mortgage bonds and Canada stock. I cannot tell you how many bonds, but some forty-eight or more thousand dollars.

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Q. How long did you hold the \$48,000 or more of 1st mortgage bonds? A. Since 1860—before the compromise decree of 1864.

Q. When were you first elected a member of the advisory committee? A. I think I took the place of Mr. Andrews. I resigned sometime after and Mr. Pinkerton took my place. I remained out about two years and then at the next election there was some misunderstanding between Mr. Andrews and the bondholders, and I was elected unanimously in preference to Mr. Andrews—no one voting for him but himself.

Q. Since 1866 have you been one of what is called the advisory committee? A. Yes, sir.

Q. When were you elected? A. In Nov., 1866, and re-elected every year as long as there was an election held.

Q. When was the last election held to your remembrance? A. I have the impression it was 1868 or '69 or 1870 or '71, I don't remember which.

Q. Will the book of records which Mr. Pinkerton is to produce show that? A. Yes, sir.

Q. At what meetings were you elected, was it meetings called by the Receivers and Managers for the purpose of rendering their statements or reports to the bondholders? A. No, sir; the meetings were called by ourselves; bondholders were notified of such meetings.

Q. Have you in your possession any calls that were made for these meetings? A. No, sir, I think not; they were made through the newspapers.

Q. Are they recorded upon the book of records? A. I think they are—I don't remember.

Q. Can you tell what bondholders participated in these meetings? A. Yes, sir; here is a list representing bondholders to the amount of \$1,225,202 (handing list to counsel)

[Copy of this list is to be furnished.—REP.]

Q. Were these bondholders present at the time you were elected a member of the advisory committee? A. A great many were.

Q. Did you vote on the bonds of those who were not present? A. I think I had a power of attorney.

Q. Then you had bonds enough in your possession or powers of attorney to elect yourself, if you wanted to? A. No, sir.

Q. And you did not vote for yourself;—how many bondholders did you usually have present? A. Well, there would be a room as large as this full of bondholders.

Q. Do you remember ever seeing at those meetings Austin Burdett of Newfane? A. I don't know him. I don't remember such a man being present.

Q. Do you remember Col. Rush C. Hawkins, of New York, ever being present? A. No, sir.

Q. Or Jas. W. Gerrard, of New York? A. Yes, sir, I remember him.

Q. How old a man was he? A. My impression—well, an elderly man. I think he represented a General Sumner, or inherited his bonds

from him or something of the sort. I don't know whether it was the man you mean or not.

Q. Do you know the firm of Brown & Ives, of Providence, R. I.?

A. I know Ives, not Brown.

Q. Were either of those gentlemen ever present at the meetings when you were elected? A. I think I have seen Mr. Ives there.

Q. From what source did you obtain the authority under which you acted? A. From the decree of the Court of Chancery.

[Court took a recess until afternoon.]

WEDNESDAY, AUGUST 25, 1875—AFTERNOON SESSION.

Mr. Willard called the attention of the Masters to a letter he had received from the Hon. F. A. Brooks disclaiming any representation of him, as a bondholder, by Mr. Safford, or any one else; and requesting that any such appearance made for him should be withdrawn.

Examination of Otis Drury, continued:—

Q. Whether or not all the authority conferred upon you as advisory committee, as you understand it, is created by the eleventh clause of the decree of June 19th, 1864? A. Yes, sir. The bondholders thought they should be represented in some form and under this arrangement it was agreed that a committee should be elected to represent the bondholders' interest in connection with the Trust and the Canada interest.

Q. Was it at that time contemplated that the Trust would afterwards issue bonds secured upon the road or its equipment? A. Nothing said in that respect.

Q. Was it contemplated then by the bondholders that the Trust would engage in the building or purchase of railroads in Canada? A. Nothing said about it.

Q. Did it enter into your contemplation at that time? A. No, sir.

Q. Has there been any meeting of the bondholders at which any action has been taken authorizing you and Mr. Pinkerton to assent to the creation of any loan or the purchase or lease of any railroad? A. There was the Horticultural Hall meeting, that was the only one I remember, that was in October, 1872. I have the impression that the extension bonds were issued then.

Q. Well, all the leases and purchases of railroads had been made before that, had they not? A. Well, I think the S., S. & C. matter was discussed at a meeting where all the bondholders were present, before they went over the road.

Q. Were they bondholders or security holders of the Vermont & Canada, or both? A. Both, I think.

Q. Was there any formal action taken by those bondholders? A. I don't think there was.

Q. Were any instructions or directions given by the bondholders in meeting assembled, either formal or informal, to you or Mr. Pinkerton?

to consent to any issue of bonds of the S., S. & C. R. R.? A. I think it was well understood by all present that they would be issued.

Q. Were any instructions or authority conferred upon you by vote or otherwise? A. No, sir.

Q. Did you approve of it under the authority conferred upon you by the decree of 1864? A. I don't know that we were confined to that, exactly; we did it because we thought it was for the interest of the Trust.

Q. Was that authority assumed by you or did you understand that it was implied from your situation? A. We understood that we were to protect the interests of the road, and we did what we thought would be for the interest of the concern. At the bondholders' meetings it was generally the large holders that met together; a man with only a thousand dollars in it was seldom seen.

Q. Mr. Drury, as one of the advisory committee, did you ever authorize, or attempt to authorize, or approve officially of the arrangements under which Smith, Clark and Smith have operated the Sullivan Road? A. No, sir.

Q. As a member of the advisory committee, did you ever authorize, or approve of, or consent to the arrangement under which the M. & Vt. J. has been operated? A. No, sir.

Q. As one of the committee have you ever advised or approved of, or consented to the transactions connected with the Missisquoi R. R., and the guarantee of its bonds? A. No, sir.

Q. As one of the advisory committee, have you ever consented to, advised or approved of the payment of a royalty to W. C. Smith or J. G. Smith upon car wheels and castings furnished by the St. Albans Foundry Co. to the Trust? A. No, sir.

Q. When was it first made known to you that either or both of these gentlemen were receiving \$3 upon each 33 inch wheel, \$2 50 on each 30 inch and \$2 on each 28 inch and $\frac{1}{2}$ c per lb. on castings furnished to this Trust? A. I did not know that they received those prices. I think I heard that Worthington Smith was paid \$1 $\frac{1}{2}$ on wheels by the Foundry corporation.

Q. Did you ever hear of the royalty on castings? A. I did not; it was not brought before us—we knew nothing of it.

Q. Now, Mr. Drury; is it not true that some time ago you filed objections in Court in writing to the payment of these royalties? A. That was on my own account that I acted and for the Canada Co.

Q. You say you filed those objections on your own account and on behalf of the Vt & Canada R. R.? A. Yes, sir.

Q. When did you file that? A. 1861 I think, perhaps earlier.

Q. Do you know where those objections are? A. I suppose they are in the Court. I saw a copy of them in this office, lying on the table.

[Copy of objections in question called for by Mr. Davenport. Copy to be furnished.]

Q. Did you before filing that paper ascertain that the allegations contained in it were true? A. Well, they wanted to see whether they

were true or not. I thought things were not exactly right and filed those objections; the case was tried and argued and I was beaten.

Q. I want to know if the statements made in those objections were true, with reference to the prices the Rutland Road paid at that time for instance? A. Well, that is what they informed me.

Q. Was it proven that that was not so? A. I don't remember.

Q. Was any proof produced before the Masters to show it was not true? A. There were several parties here.

Q. Who were the Masters that passed upon the questions presented here? A. I think Judges Smalley and Pierpoint.

Q. Now, sir, was there any proof furnished to the Masters with reference to the royalty paid to W. C. Smith? A. I never heard of any royalty paid.

Q. Then there was no proof of that fact brought up. A. There was no allegation to that effect.

Q. Do you know where that Masters report is? A. Yes, sir—it was here; I saw it.

Q. Was that the original report? A. I think so.

Q. Taken from the files in Court? A. I think so, sir.

Q. Do you know how long it has been here in the custody of this management? A. No, sir.

Q. We want to see that Masters' report which Mr. Drury alludes to.

Q. When did you first hear that Gov. Smith, Joseph Clark and Lawrence Brainerd, either on their own account or as Receivers and Managers were operating the S. S. & C. Road? A. Not until about the time we bought it—a short time before, I think.

Q. When did it first come to your knowledge that they had been making loans to A. B. Foster? A. I did not know anything of it until the purchase of the road.

Q. How much did you understand the Trust were to pay Foster for the S. S. & C. Road? A. I think about three or four hundred thousand dollars. Well, perhaps three hundred and twenty-five to fifty thousand dollars, in gold.

Q. Did you ever see the written contract for the purchase of that road? A. No, sir. Well, on further reflection, I think I did.

Q. Did you understand the Trust was going to pay Mr. Foster any more for the road than was specified in the contract? A. No, sir. I think there was a debt of \$150,000, in bonds or something else, in addition to the \$325,000 or \$350,000. I understood that \$150,000 was a foreign loan which could lie any length of time at 5 per cent.

Q. Did you investigate or ascertain how much that road was worth? A. No, sir.

Q. Did you investigate or ascertain how much it had paid per annum in the way of earnings? A. No, sir.

Q. Did you know at the time that road was purchased that there was involved in it the purchase of A. B. Foster's interest in the M. & Vt. Junc. Road? A. No, sir.

Q. Did you know at that time that Foster had any interest in that road? A. No, sir.

Q. Did you know at that time that the Trust had been furnishing Foster with equipment and rolling stock to operate that road with? A. I think there was something said about the rolling stock being lent to them.

Q. Did you know that afterwards the Trust paid Gov. Smith and Mr. Clark in cash for that rolling stock? A. No, sir.

Q. I mean the rolling stock that came off the S., S. & C. Road, which originally belonged to that road? A. Well, I supposed the purchase of the road would have included the rolling stock.

Q. You supposed that the price stipulated for the purchase was to cover the rolling stock of that road? A. Yes, sir.

Q. Do you know what was on the road at that time? A. I do not, sir; I did not try to ascertain.

Q. Did you understand it was your duty to make such an investigation before approving of the purchase of the road as one of the advisory committee? A. Well, the bondholders themselves consented to or advised the purchase, and they would be the best able to judge of their own property.

Q. And you supposed the bondholders would find out as they went over the road what it was worth; how long the rolling stock had been running; what the indebtedness was, and all the particulars of the road?

A. Well, I don't know as to that.

Q. Do you now know how much that road has cost the Trust?

A. I have the impression—about \$450,000, gold.

Q. You think the Trust has paid \$450,000 in gold for that property? A. I think they have paid \$320,000 or \$325,000 in gold, or \$450,000 in currency; then in addition to that there is the amount outstanding on the European bonds.

Q. When did you first learn that A. B. Foster was receiving from the Canadian Government the compensation for carrying mails upon the Trust roads in Canada? A. Well, perhaps within the past year. I understand he has not received it as his own, but has received it to account for here.

Q. What knowledge have you of the terms or arrangements under which Mr. Cheney is operating the various express lines upon these roads? A. I don't know, only as I find so much money paid by him into the Trust once a month, or so.

Q. Have you ever as one of the advisory committee approved of the contracts made by Cheney with the Trust? A. No, sir.

Q. Have you as one of such committee approved of the disbursement of a secret service fund? A. No, sir.

Q. When did you first hear of that fund? A. My attention was called to it some time ago, about the time the Pullman cars were sold.

Q. Do you think you knew of it as long ago as that? A. I think so, but it might not be as long ago as that. I may be mistaken.

Mr. Drury's objections filed before the Masters, and also the report of the Masters thereon, alluded to by the witness, and called for by Mr. Davenport, were here produced and read.

Q. Mr. Drury, I now show you a paper purporting to be your objections, as filed, about which you have just testified; is that paper in your hand-writing? A. Yes, sir.

[Mr. Davenport offers in evidence the papers in question:—"Objections to items in the accounts of the Receivers and Managers," et c., marked "Exhibit 71."]

The document was then read by Mr. Davenport, and the report of the Masters thereon, put into the case, marked "Exhibit 72."

Q. Mr. Drury, are the statements contained in this writing over your signature true? A. Yes, sir.

Q. I notice the report of the Masters shows that you did not furnish any evidence as to what the Whitney wheel and Washburn wheel could be bought for. A. The reason was because we could get no one from the foundry in Philadelphia.

Q. And you did not furnish any evidence to support your allegations as to the cost of those wheels or castings except to show what the Rutland Road paid. A. And I think the Nashua Road, and I think we had some other prices furnished at the time.

Q. Was the fact before the Masters of the royalty of \$1½ you said you were aware of? A. I did not know that then, I think.

Q. When next after the hearing before the Masters did you make any objections or have knowledge of any being made to the prices paid for carwheels and castings? A. I don't think we made any further objections. As I said this morning I was out of the committee two years, but after I was re-elected I think the matter of prices of castings and wheels came up again, I think it was referred to a committee, and I think the prices were revised.

Q. Have you taken any steps since you filed those objections to ascertain how the prices paid by the Trust for these articles compare with the prices paid by other roads? A. We had them almost always before the committee. We had notes from Foundrys and machine shops, which were before us when the contract was made.

Q. Well, now, do I understand that these contracts which have been made with W. C. Smith have had your approval on behalf of the bondholders? A. Well, yes, but not in the shape of a written assent.

Q. (By Mr. Edwards.) Do you mean that you have acquiesced in it? A. Yes, sir; the whole matter was laid before us and we had information submitted upon the matter, and after taking the matter freights into consideration and the quality of the work we decided it would be best to purchase here.

Q. Did it come within your knowledge at any time before that period that the Master Mechanic of this road had said he could not get the wheels? A. I understood Mr. Perkins made some objections but I did not know upon what grounds.

Q. What knowledge if any had you with reference to the transaction with the Pullman Car Co., I mean the selling of cars to that Company and taking of stock in payment? A. None at all any further than I knew some cars were going to be sold and I enquired of Mr. Session whether the price to be paid was a fair price—he told me he thought

was, and that they were building cars to take their place, which would belong to Pullman.

Q. Did you know at the time that these cars were to be paid for in stock of the Pullman Car Co.? A. No, sir.

Q. When did you first learn that they were to be paid in that manner? A. When we saw the entry in the books.

Q. Whether you ever in any way approved of the Receivers taking stock and distributing it among themselves, and Mr. Merrill, and Mr. Stark? A. I did not know anything of it until I saw the entries on the books.

Q. What did you think of it when you found it out? A. We did not think it was just the thing to do, to appropriate it among themselves; we thought it was like a trustee purchasing on his own account the property of a Trust.

Q. Did you investigate to find out whether that stock was taken by the Receivers at its then market value? A. I did not know what the market value was. I do not know now what the market value is. There is very little of it sold in the Boston market.

Q. Have you any knowledge as to the price the stock was sold at? A. No, sir.

Q. Have you ever ascertained from any source what the Swanton branch cost the Trust? Q. The Canada Road built that.

Q. It was originally done with money drawn out of the Trust, was it not? A. Yes, sir.

Q. Do you know whether the money drawn out of the Trust was all appropriated to the construction of that road? A. Do you mean whether it was all drawn out for that express purpose.

Q. Yes? A. No, I don't know.

Q. Have you, as a member of the advisory committee, ever examined into the disposition of that money further than to show that it went into the hands of Smith and Clark? A. No, sir.

Q. Have you ever examined into the accounts to see what was done with the money drawn out by Clark and Smith to build the Burlington branch? A. Do you mean as to how it was appropriated.

Q. Yes? A. No, sir.

Q. Do you know how much, if any, monies of the Trust went into the construction of the M. & Vt. J. R. R.? A. No, sir.

Q. Have you ever looked into that matter? A. No, sir.

Q. Do you know if the \$50,000 borrowed of the Northern R. R. went in to that road? A. Yes, sir.

Q. Have you ever endeavored to discover by examination of the books and papers connected with the construction of that road whether that was all that went in? A. No, sir.

Q. Have you ever seen any books or papers connected with the construction of the M. & Vt. Junc. R. R.? A. No, sir; I was told they were in Canada. I never saw them here.

Q. How large a stockholder were you originally in the National Car Co.? A. I think I had fifty shares, and one hundred in the V. I. & C. Co.

Q. Has the advice or consent of the advisory committee ever been asked for or received by these Managers with reference to the subject of issuing free passes? A. No, sir.

Q. Have you any knowledge of the extent to which the Managers have issued free passes? A. No, sir.

Q. Was your consent or advice given as one of the advisory committee to the expenditure of money in obtaining the charter for or in connection with the Western N. H. R. R. as far as it went? A. No, sir, I don't think we were ever asked about it, but we knew that such an expenditure was made.

Q. Did you ever, as one of the bondholders, advise the employment of Mr. Jo D. Hatch to appear at the various sessions of the Legislature? A. No, sir.

Q. Did you ever authorize or approve of any expenditure of money for lobbying purposes at Montpelier, Concord, N. H., Albany, or Washington, D. C.? A. No, sir.

Question objected to by Mr. Fifield in the form it was put, and varied by Mr. Davenport:

Q. Have you, as a member of the advisory committee ever approved of the expenditure of money by Jo D. Hatch or others, at Montpelier, for the purpose of "resisting adverse legislation," and procuring favorable legislation? A. No, sir.

Q. Have you ever approved of the use of money before the Legislature of N. H., or before Congress? A. No, sir.

Q. Did you, in behalf of the bondholders and as member of the advisory committee, approve of the payment of \$25,000 to William C. Brown, as retainer, or for any other purpose? A. No, sir.

Q. Had you any knowledge of that payment? A. No, sir; not until after it was paid. I understand the Ogdensburg Road paid some of the money.

Q. You don't understand that this Trust paid it? A. Well, don't know whether this Trust paid the Ogdensburg Road. I understood it was in the contract with the Ogdensburg Roads and in the accounts.

Q. Did you approve of the purchase of stock in the N. T. Co. A. I think that was before us, and I think it was stated that the low roads were in connection, and that it was to keep the through line running. My impression is that Mr. Chamberlain came to the roads here and said if he could get \$500,000 he could go on all right, and get clear of his debts. I understand that this corporation took \$50,000, and that the other roads in the Line also took something. I don't know whether I approved of it or not, but if it came up to-day, I should approve of it; I should think it was to my interest to do so.

Q. Would you have approved of it in view of the losses that have resulted? A. Well, in that view, perhaps not; but it was represented that it would be valuable to the road—especially to the Ogdensburg.

Q. Did you approve, on behalf of the bondholders, of the Rutland and Ogdensburg leases? A. Yes, sir.

Q. Under the authority conferred by the Decree? A. Yes, sir; it was for our interest to have harmony and prevent competition.

Cross-examined by Mr. FIFIELD.

Q. Mr. Davenport asked you, I think, if you ever assented to the arrangement between the Trust and the Sullivan R. R.? A. He did not, to my knowledge.

Q. Have you known all the time you were connected with these roads that the Governor, Mr. Clark and Mr. Brainerd operated that road in their own right? A. Yes, sir.

Q. And claimed to do so? A. Yes, sir.

Q. Have you assented to that? A. I have never made any objections, sir. I have supposed they took the profits, but I knew they had a risk. I supposed the Trust lost nothing by the transaction, as the books were made up I don't see how they could.

B. B. Smalley called and duly sworn.

Examined by Mr. FIFIELD.

Q. Will you state when you were appointed a position on this road, and the nature of your employment? A. I think I commenced in August or September, 1861. My business was travelling agent over the line from Montreal to New York. I was engaged in that business most of the time until 1863. I looked up the passenger business from Montreal to New York, chiefly in New York. I looked after the transportation of soldiers after the war commenced, settled their transportation account in New York with the government.

Q. How much of your time did it take up? A. Practically, it consumed the whole of my time. During the war I was at Brattleboro on Gov. Holbrook's staff, for a short time. I transacted as much business there for the road as elsewhere. I looked after their business wherever I went. I was also clerk of the District Court in 1861, but I did not feel it incumbent upon me to resign a position paying me enough to live on, and there was nothing improper in my holding the two occupations.

Q. The question is whether you earned your money on this road or not? A. I did earn it.

Q. Have you any diary or anything which indicates how much of your time was occupied in the employment of the road? A. Well, my diaries were not kept at that time as perfectly as I keep them now; but, from the time I was appointed I don't think there was a week but that I went from Burlington to New York or Montreal on the business of the road. With regard to the voucher, about which so much has been said, I took that retainer of \$100 because I did not think they would give me any more. That amount was for legal service in connection with the Bankruptcy Court, in which practice I think I was better posted at that time than any lawyer in Vermont. I understood I was retained by the request of counsel here. I looked up decisions upon the subject referred to, which was whether the Receivers could be put into bankruptcy. I had then probably the only set of reports of bankruptcy cases in the State.

Q. (By Mr. Davenport). Were you in active practice in the U. S. Courts at the time you received the retainer? A. I was, sir.

Q. For how long had you been in such active practice? A. I commenced practice after I went out of the Custom House, where I had been eight years. I made the practice of bankruptcy law a specialty. I was admitted to the Bar in 1863.

Q. When did you study your profession? A. All the time I was in my father's office.

Q. Were you studying for your profession during the period you were serving as general passenger agent? A. No, sir, I had no time to do so then. I had been in my father's office as a boy; and while I was in the Custom Office I had a lot of spare time and studied then. I was admitted in 1863 and commenced practice in 1864.

Q. And immediately upon your admission in connection with your clerkship in the U. S. Court you commenced the practice of law in that Court? A. Yes, sir.

Q. And continued in practice there down to what time? A. I gave up practice I think in 1873.

Q. Why did you give up practice in that Court in 1873? A. Because I found I had too much to do as clerk and could not do both, and there was a law passed in 1874 which would have prevented me doing the both services.

Q. And you had not quit the practice at the time you took this retainer. A. No, sir.

Q. And that you think was in Oct., 1872. A. I know it was—the voucher will show the date. I charged the retainer in October and was paid the following March.

Q. At the time you were in the service of this Trust as passenger agent did you have any office? A. No, sir, I did not keep office.

Q. Did you sell tickets? A. No, sir.

Q. Did you make freight contracts? A. No sir. Well, I did make some in 1861 with the Transportation Co., both in passengers and freight.

Q. Were you connected with the Montreal office? A. I was not connected with it, I did my business there when in Montreal.

Q. Will you tell us what you did—what did your duties consist of? A. I did whatever Supt. Merrill told me to do.

Q. What did he tell you to do? A. Well, in the first place I went and saw that the advertisements were properly executed, I went to the various ticket offices to see what was being done.

Q. Were there not enough men in those offices? A. I don't know, sir.

Q. And you went at Mr. Merrill's direction to see that advertisements were properly inserted. A. Yes, sir; in New York I saw that sheet advertisements were posted.

Q. What else did you do besides post advertisements? A. Well, I cannot tell you now, sir—I made arrangements for the transportation of troops, made contracts, collected the money, looked up cars, &c.

Q. Who did you make arrangements with? A. With the lower roads. I recollect getting a lot of cars of the Hudson River R. R.

Q. Did you make a verbal contract with that road for the troops, was not a uniform price paid by the Government for that service, and

had they not a right to use any road in the country they wanted to? A. Yes, sir.

Q. Then as general passenger agent you made an arrangement with the Hudson River R. R. for cars, what was done with those cars? A. They were sent to Burlington.

Q. Did you not perform that duty as a member of Gen'l Holbrook's staff? A. No, sir.

Q. Over what roads were those troops sent? A. They were sent from Burlington to Rutland over the Rutland R. R., and from there I think a portion went over both roads.

Q. Now, sir, not one single penny of that job came to the benefit of the Trust? A. I don't know about that, sir.

Q. Did you make that arrangement for the transportation of troops from Burlington via the Rutland R. R. on behalf of the Trust? A. I made the arrangement for the cars by their directions—I think Gov. Smith's direction.

Q. Was that while he was Governor of Vermont? A. No, sir; my impression is that I resigned before he was elected Governor.

Q. Can you tell us anything else you did, except what you have stated? A. I cannot go into details now; I did what I was directed to do.

Q. Did you invite men to travel over this road? A. Well, I cannot tell you, now.

Q. Were you at that time in the employ of the Rutland R. R.? A. I was clerk of that road.

Q. At what salary? A. I think, nothing, at that time—perhaps I got \$200 per year; I am not certain. My father owned the stock of that road down to 1863 or '66—perhaps later.

Q. Have you stated all the specific services that you remember having rendered, for which you received \$1,000 per year? A. I cannot tell you now, sir.

Q. I notice there are some vouchers on file here for extra interest paid you for the use of money; were you in the habit of lending money to this Trust? A. Yes, sir; there came into my hands \$10,000, or so, which I loaned to Gov. Smith, for the road here. Eventually, one of the parties interested in the \$10,000 wanted some of the money, and the loan was reduced to \$6,800, which now stands. I do not think I loaned them any other money.

Q. What interest have you received? A. Nine per cent.

Q. You have been giving a voucher for \$100 extra, once in a few months? A. No, sir; the voucher is a straight forward business transaction.

Q. Have you not received once in three months \$100, besides the interest? A. No, sir; I do not remember any such transaction.

Mr. Fifield: It is a voucher for one per cent. over the eight per cent—making nine per cent; it has been paid yearly, I think.

Mr. Smalley: I remember that, of course, and I can say what it is for.

Q. What is it for? (Witness whispered answer to Mr. Davenport, who asked him to repeat it, aloud.) A. When I loaned the

money I told Mr. Williams I wanted nine per cent. He said he or paid the Merchant's Bank eight per cent., and he did not want them understand that he paid more; so I got the other one per cent. all right by voucher—being paid the eight per cent. direct.

Lansing Millis recalled by Mr. FIFIELD.

Q. Mr. Millis, will you tell us about these car companies: were the necessities for putting the cars on? A. When we only had the water line, which was only open during the season of navigation, I felt very much the need of a through all rail line to enable us to do business all the year round. About 1866 a changeable gauge car was made which was to run over the N. Y. C. and Great Western—the latter being a broad gauge road. Mr. Rice, of the M. C. R. R., and Mr. Movious and others, of the Great Western, came to Boston to buy the patent right of that car, but before they closed the bargain another car appeared of similar character and a litigation ensued which continued for some years until the Great Western Road was changed to a narrow gauge road. We had full belief that we could build up a good business if we had the cars. This new car seemed to be just what was wanted and it was thought would answer the purpose. The car was examined by railroad men from Chicago to Boston, and also by a committee of bondholders. The patent right was offered to this line for \$50,000, but it was declined. Finally a proposition came from Mr. Brydges, he was very anxious to build up a through business for his road; the G. T. R. depended largely upon through business. He made a proposition which was submitted to the various managers of the lines between Boston and Montreal, and Montreal and Chicago, the proposition made by Mr. Brydges seemed to meet their views, an agreement was made up and signed jointly by them; and the result was the organization of the National Car Company with a capital stock of \$500,000, if I recollect rightly, I think some \$200,000 was subscribed in the first place and then they came to a stop, and some of the cars which we had building then had to be stopped; we nearly came to a stand still. It was urgent and necessary that we should go on with the matter. A few individuals then came forward with subscriptions, and that is the reason why I became so large a stockholder in it. I took it to carry the thing through. Finally the cars were got to running and parties came and took additional stock. The demand made for the cars from the different roads from time to time became so great that we had to keep building more cars until we got up to a thousand cars; and the Michigan Central R. R. thought we ought to have 2000 cars to fully meet the necessities of the roads. I have here a memorandum of a statement of the business previous to the putting on of the cars. In the year ending 1864 the entire business in connection with the G. T. R. to the west amounted to 18,794 tons. In 1869, 37,052; a certain number of the cars had got to running then.

In 1870 the tonnage was	- - - - -	99,909 tons.
" 1871 " " "	- - - - -	145,666 "
" 1872 " " "	- - - - -	159,019 "
" 1873, which was the year of the panic,		
the business fell to	- - - - -	128,726 "

For the next four months, that is from December to March, there was a large increase and for that time the amount was 76,298 tons. The average amount of earnings for the roads in the line of this Trust, solely, not the lower roads, was \$2.44 per ton, or a total of \$1,623,732.16 that covers the period from 1869 to 1873, inclusive, and a part of 1874. The average car service amounted to \$3549.72 per month for the sixty months that the cars had run up to that date; that includes the total amount of car service paid on all the roads in the Trust.

Q. (By Mr. Edwards). What is the total amount for the sixty months? A. \$212,983 20. You will notice from the figures I have given you that the business increased very largely after the cars were put on. That increase was caused solely by having the through line of cars. We could not have done the business and competed with the Boston & Albany Road if it had not been for the National Cars. And now, with reference to the agency at Boston; we have a single agency against what? I will tell you:—against the Baltimore & Ohio, Pennsylvania Central, Erie, Boston & Albany, the Blue Line, Red Line, White Line, Star Line, and the G. T. R., via Portland, Me., (which latter was only a small opposition). These agencies—the Red Line, White Line, &c., (and there is the Merchants' Despatch, which I forgot to include), all these agencies worked for the Boston & Albany, with a staff in Boston of some twenty-five men for business against a single office. You will readily see from what I have said that the success of the cars was the success of the roads. Rates have ruled low for the past year or two but the tonnage has kept up with any year we have had. Now in reference to the cars, we ran the cars somewhere about three years—say from 1869 to '72—before they really began to “show their teeth.” We had several complaints about the cars from the G. T. R.; on one occasion I recollect going over the G. T. R. R. (the Governor going with me) to see where one of the wheels had slid off, and run along on the ties for several miles—so that as I have said we had great complaints. The Grand Trunk Road also began to feel aggrieved at the contract, parties on the other side of the water felt nervous about it, thought they were paying too much. We had already reduced the price from 3c to 2½c and they pressed us to reduce it to 2½c. There was a lot of correspondence between Mr. Brydges and the President of his road in England, and between Mr. Brydges and myself about the car service, which we could not see our way clear to reduce. Finally Mr. Brydges made a proposition to buy 500 of the cars—of those first built, which were the changeable gauge cars. That is, the broad gauge trucks &c., could be taken from under the cars and narrow gauge trucks put in their place and vice versa. There was an arrangement at Sarnia and Montreal to elevate the cars and transfer the trucks. Well, the G. T. R. arranged to purchase 500 of the cars of us and we sold them.

Q. (By Mr. Walker.) What did you get for those cars? A. \$535,000. When the G. T. R. arranged to purchase the 500 cars it was also agreed that we should do away with our changeable gauge cars and build some new cars. We then went to the expense of about \$100,000 in changing the remainder of the wheels of about 200 and odd cars and finished them up as narrow gauge cars. It requires a very broad

tread wheel under the cars which run on the Western Road—that is the trouble with the Central Vermont cars at the present day, the western roads will not run them over their roads. There are some of the packing houses in Chicago that have tracks running to them, and those tracks have some very sharp curves. There are also some short curves on some of the western roads where a broad tread wheel is indispensable.

Q. (By Mr. Fifield.) What was the first price paid for the use of the cars? A. 3c per mile, that was paid by all the roads between Boston and Chicago; that rate was reduced from time to time, it was reduced from 3c to 2½c and then to 2c.

Q. (By Mr. Walker.) When was it that these reductions were made? A. I don't remember the time of the reduction.

Q. What was the price in 1873? A. 2c I think.

Q. What is the average life of one of these cars, Mr. Millis—how long is it before your capital is gone? A. I should think seven years for the cars having long runs.

Q. Then you must get back your capital and extra dividend during that seven years or it is a bad investment, is it not? A. Yes, sir.

Q. So that if you got 2½ per cent. it would take 14 per cent. of that for seven years to replace the car at the end of that period, making the dividend equal only to 6 per cent. of your capital. A. Yes, sir, I suppose that would be about it.

Q. How came people about this road and the G. T. R. and other roads to take such a lot of the stock? A. They took it, I presume, for the interest of the roads. The roads had not cars enough to do business. The G. T. R. was not able to build cars for itself, and the Michigan Central were hiring cars whenever they could. If you look at their reports you will see they are paying about \$256,000 for car service outside of their own cars.

Q. These cars ran between Chicago and Boston and other intermediate points and sometimes beyond Chicago? A. Yes, sir.

Q. Well, take Chicago to Boston as a fair test, where did the earnings and income of this Company come from? A. It came from fifty different roads, I presume.

Q. Now, what is the distance that the roads of the Trust run over in the journey from Boston to Chicago. That is, what portion of the through line? A. 163 miles.

Q. Now, what proportion of the earnings of this aggregate does the Trust pay? A. That would be difficult to say. A car might only come as far as St. Albans and then go back.

Q. Well, taking the mileage of the roads of the Trust at 163 miles, that would be about one-seventh of the through mileage? A. Yes, sir.

Q. And the receipts of the Car Company would go into the Treasury of your Company? A. Yes, sir.

Q. Do the roads pay the charges for car service without objection? A. Yes, sir. they are all satisfied, as far as I know, sir.

Q. (By Mr. Fifield). When was the National Car Co. organized? A. I think in 1869; the charter was obtained in 1868.

Q. How many of the V. I. & C. cars were originally built? A. I think 800. They were built for the lumber business from Ottawa, principally.

Q. And built longer than the ordinary cars, were they not? A. Yes, sir, they were built long, specially for the lumber trade..

Q. Subsequently the National Car Co. bought the cars of the V. I. & C. Co. and the two Companies became incorporated? A. Yes, sir.

Q. (By Mr. Walker). Who was to keep the cars in repair? A. The National Car Co., unless it was for damage occurring through any fault of the railroad.

Q. Now at the time of the organization of the V. I. & C. Co., and down to the present time, what has been the rate allowed by the road; below White River Junction to the Trust for the use of freight cars? A. Four mills per ton per mile.

Q. Then for a car of ten tons of freight this road would collect from the lower roads 4 cents per mile for car service? A. Yes sir.

Q. And the Car Company would receive 2 cents going down and 2 cents coming up: if then the car came back this way loaded the Trust would make 4 cents over and above what was allowed the Car Company? A. Yes, sir, I suppose they would.

Q. Would they make money on the cars when they came from Boston this way whether loaded or not? A. Yes, sir, if they were only half loaded.

Q. The V. I. & C. cars were not adapted to through business, were they? A. Well, we are using them for the lumber business from Michigan over the G. T. R. R. That road has recently been made a narrow guage.

Q. Under the contract the Trust had a right to buy the cars of the V. I. & C. Co. at valuation, had they not? A. Yes, sir.

Q. At the time this patent was presented which you have mentioned, did you think the Trust would be justified in expending their money in building cars on that patent? A. We talked the matter over at the time and we considered that the Trust would be justified in doing so; still the roads at first thought it a doubtful experiment. I think the line of cars beneficial to the line of roads over which they run. The cars get better attention than if they belonged to a railroad corporation; we keep three men all the time looking after the cars.

Q. Mr. Millis, the repairs of the National cars are made at these shops are they not? A. Very largely, sir. Not all of them.

Q. What does the Trust charge you for such repairs? A. The agreement was that they should charge cost, but I don't think they are done at cost. I think the Trust makes a profit on the repairs.

Q. Do you know what these V. I. & C. cars cost? A. I do not, sir.

Q. (By Mr. Fifield). It has been asserted, Mr. Millis, that preference has been given to the National cars. That is, that while the cars of the Trust were lying idle the National cars were being used. A. I do not think that is the case, sir, unless they have been paid for it.

Q. Who do you mean by "they?" A. The road, sir.

Q. It has been said, Mr. Millis, the road had an enormous and unnecessary equipment. Now I wish to know if, prior to July, 1873, this road was not pressed for want of cars? A. All the while, sir, the demand was constantly in excess of the supply. I used to get telegrams almost daily to hurry the cars back. It takes a long time to get cars returned when they are loaded with lumber, potatoes, hay, &c. People would use the cars for storehouses, the freight would sometimes be sold by the receiver out of the cars and we could not collect the demurrage.

Q. (By Mr. Wriker). Did you ever institute a comparison as to the relative amount of rolling stock in 1869 on this road and that on other single track roads in the country? A. No, sir.

Q. Then you don't know as to how the equipment of freight cars compares here with the equipment on other roads? A. I know this line has had to furnish equipment for all the roads below.

Q. You had an addition to your cars when the Rutland and Ogdensburg Roads came into the hands of the Trust, had you not? A. Yes, sir, and we had the business of the Rutland Road also.

Q. What was the rate of car service paid in 1870? A. I think 2½c.

Q. When was it reduced to 2c? A. I don't remember, sir.

Q. Were not your rates reduced because of the objections of the various roads that the charge was too much? A. Yes, sir.

Q. Then your statement that the roads paid these charges without objections had no reference to what you have just stated. A. They only objected on the ground that in comparison with the rates paid by other roads the rates charged them was high. They did not really object to the rates being too high, but only in comparison with the other lines. They claimed that if we reduced to one we should reduce to another.

Q. Well, did not the G. T. R. claim that the rate was too high? A. Yes, sir; that is why it was reduced.

Q. Are you willing to tell us what is the present rates for the cars, Mr. Millis? A. No, sir; but I will tell you this, I would prefer 1½c per mile with the regular business of the cars to 3c per mile under the old contract.

Q. Now, sir, in reference to these cars and the repairs made to them, have you ever kept any record of the expenses on the first issue of cars? A. We sold those, sir, to the G. T. R. after we had them two years.

Q. Have you any cars now on hand of that first issue? A. No, sir; we have only those built since then.

Q. How many of the V. I. & C. cars that were originally constructed in these shops here are now running? A. 800 of them were built and I don't know but they are all running, or those not running are ready to run.

Q. Now, Mr. Millis, I understood you to say that the amount of car service paid during a certain period was about \$3500 per month; was that the amount of car service paid to both car companies or only to the National Car Co.? A. Only to the National Car Co.

Q. Can you tell me whether this Trust paid anything for car service more than it received before the organization of the National Car Co.? A. I could not tell, sir—I was not here to have charge of that matter then.

Q. Were the V. & I. C. cars used for through freight when they first ran on the road? A. No, sir. They were intended for the Ottawa lumber trade, but as that was not so successful as it was thought it would be, the cars were used to carry grain from the elevator at Ogdensburgh. We use them now to carry lumber from the Michigan district.

Q. Then the lumber business for which the V. I. & C. cars were constructed proved to be a failure? A. That is what I understood, sir.

Q. The competition for through freight has been very sharp, has it not, and there has been a steady decrease in the rates? A. Yes, sir, the rates have fluctuated a great deal, up and down.

Q. Has it not been more of a decrease in its general result? A. No, sir.

Q. Have the rates ever been as low before as during this summer? A. I think there has been a time when freights were carried from New York as low as they have been this summer.

Q. Have you examined the gross earnings during 1872 and 1873 of this through freight, for the purpose of ascertaining how much it has cost to do it? A. I could not tell how much it cost each road to do its freight business.

Q. Did you undertake to limit yourself in the reception of freight or the making of contracts to such prices as should be profitable? A. We got the best prices we could get, sir.

Q. But did you limit yourself to such prices as were profitable? A. We got such prices as the competition would allow.

Q. Did you ever ascertain the amount per ton per mile which the Trust received for its business during the last part of 1872? A. I did not.

Q. Did you know whether that business was profitable or not? A. I know the rates were better then than they have been since, sir. I think they must have been profitable, if the statement is correct, which I have just given you.

Q. (By Mr. Davenport.) Did you get the materials to make the statement which you have just sworn to, from the same sources which the materials came from to make up the statements in the reports for these years to the bondholders? A. I cannot tell, sir. I do not know what those reports are, sir. The statement I have given you was made up by one of the clerks from the books, and I take it for granted that it is correct.

Q. (By the same.) Have you ever compared your statement with those printed in the reports to the bondholders? A. No, sir.

Q. (By Mr. Fifield.) If a railroad is doing through business from Chicago to Boston, and competing with other lines, has that road got to do business at the same price as others do it? A. Yes, sir.

Q. Now suppose you do not do it what becomes of your line? A. It would get disorganized; we should have to stop running, and should lose our business.

Q. So that you cannot go on with that business unless you do it at the same price as the other lines do it? A. No, sir. Suppose a man came in to my office when the rates are down and I refused to take his freight at a reduced rate, when rates got up again he would not come to me, but would give his business to the line that took it at the reduced rate when the rates ruled low.

Q. Who fixes the rates on through business? A. They are fixed by the Managers of the terminal roads at Chicago. We have no voice in the fixing of them. We are obliged, as common carriers, to accept the freight and to carry it at the ruling rates.

Mr. Walker:—You are not obliged to carry it at a loss?

Witness:—I should like to know how long you would stand in Vermont and have a rate from Boston of \$1 30 per 100 lbs. through to Rutland or Montpelier. I should like to know how long it would be before they would call an extra session to regulate the rates.

Q. Now, Mr. Millis, in reference to these low rates, that they speak of, are they remunerative or not? A. I don't think we had any rates previous to 1873 but what were remunerative.

Q. And taking the whole Western business together you regarded it as largely remunerative to the Trust, did you not? A. Certainly, sir.

Q. (By Mr. Walker). Whether the amounts received upon Western bound freights have been enough to pay car service on the Western bound cars? A. You have the whole amount of car service and the amount of tonnage, sir, on the statement I gave you. I think it has been, sir.

Q. Have you not stated here on one occasion that the Western bound freight does not pay car service? A. I may have stated so once here, but it was an off-hand remark to the gentleman who told you. (I know to whom you refer). I found out subsequently that I was in error.

Q. (By Mr. Fifield). Mr. Millis, how is it about the G. T. Ry and Michigan Central R. R.; do they want to get this through business at the present rates? A. Yes, sir; the West is almost swarmed with their agents soliciting the freight.

Q. Is not the Passumpsic R. R. stretching out its hands and endeavoring to get to the G. T. R., so as to have a share of this Western business? A. Yes, sir; so is the Boston & Maine, and also the Eastern R. R.; both are working for it.

Q. (By Mr. Underwood). If you gave up your merchandise and produce traffic would you not of necessity lose the passenger traffic connected with this freight business? A. Yes, sir; the one depends a great deal on the other.

Q. Now Mr. Millis what have you to state in reference to the Mansfield House? A. I wish to correct a mistake which I made yesterday. I said I was treasurer. That was a mistake. I was clerk of the board.

Q. What was the origin of these hotels—that is, the Mansfield, Waterbury and Welden house here, and what was the effect of their erection upon the passenger business of the Line? A. In reference to the Mansfield Hotel. Before my connection with this road I was in the White Mountain business in connection with the G. T. R. After I became connected with this road the Governor wanted I should go and see if there were not any points of interest on the line of this road that would draw travel here. I came here and saw the springs. I went also to Waterbury and likewise to Stowe. At Stowe I was introduced to Mr. Bingham. At that time there was a small hotel there, and a small house on top of Mt. Mansfield, and I think they had some four or six horses at Stowe to do the business to the Mountain.

I talked with Mr. Bingham. He said he would undertake to convey passengers to the top of the mountain and back for \$3, and board them on top of the mountain at \$2 per day or at Stowe at \$5 per week. I started for Boston and at once made a rate of \$11 from Waterbury to Mount Mansfield and return, including cars, stage and everything. The business prospered so well that I soon had a letter from Mr. Bingham not to send any more people there, he was full and could not accommodate any more. The next September I went to Stowe again and saw Mr. Bingham. I said it was very important that a house should be built to accommodate the public and keep up the traffic. He said he would raise \$20,000. I told him to come to Boston and see me when he had raised the \$20,000. He did so, and we brought it up to \$40,000. A committee was appointed who went up to Stowe and located the hotel. The stockholders, however, felt that the railroad had not done its duty, and they said as the railroad received a benefit in the shape of passengers it ought to subscribe to the hotel, which it eventually did. Now although there has been no dividends on this stock the road has reaped the benefit in the shape of passengers. This same principle applies to all the three hotels.

Q. Now suppose the stock is all lost as an investment, what do you say to its having been a benefit to the Trust? A. I think it has been a great benefit. It is a customary thing upon railroads to have such hotels. There are some on the G. T. R., B. & O., Pennsylvania and other roads.

Q. Now with regard to \$5,000 of stock in the White Mountain R. R. what do you know about that? A. I know its object was to draw passenger traffic this side of the Mountain instead of its all going via the G. T. R. on the other side.

Q. Did not other roads in New England take some of that stock? A. Yes, sir. The stock was taken with the idea of bringing travel this way.

Q. Did the Passumpsic contribute? A. I have heard so, sir, but I am not certain from my own knowledge.

Q. Did you think the \$5000 invested by the Trust under the circumstances was judicious? A. Well, I considered it a good investment.

Q. (By Mr. Walker.) Did the Rutland Road subscribe? A. I don't know whether they did or not.

Q. (By the same.) Did the Sullivan Road or its Lessees? A. I don't know, sir. I understand that the Northern did, which was as good as the Sullivan Road subscribing. I understood the Conn. River Road subscribed but I could not swear positively, I never saw the subscription paper.

Q. (By Mr. Davenport.) Where is the nearest point on the roads of the Trust to this White Mountain R. R.? A. White River Junction. I suppose.

A. And how near is that? A. 68 miles I should think.

Q. And it is your opinion that these investments in Hotel Companies, although they have never paid dividends, have indirectly been of great benefit to the Trust. A. I know they have, sir.

Q. And this is also true, in your judgement, of the investments of Car Companies. A. Yes, sir, I think the Trust has derived benefits from the Car Companies.

Q. Then how does it happen that the Trust has been unable to keep its head above water and pay dividends? A. I think the trouble is on account of the disaffection of some outsiders who are entirely engaged in making expenses for this Trust and taking up the time of the Managers when it should be given to the interest and business of the road.

Q. Do you testify that under oath? A. Yes, sir.

The following exhibits were filed by Mr. Walker:

Statement of through freight business, six papers, marked "Exhibit 75."

Statement of assets, 1st July, 1873, &c., marked "Exhibit 76."

Page 80 to 86 (inclusive) from Engineer's Report of State of New York, marked "Exhibit 77."

(The latter relates to matters of the Ogeensburg and Lake Champlain R. R.)

Court then adjourned until next day.

THURSDAY, AUGUST 28TH, 1875.—MORNING SESSION.

Mr. Davenport puts into the case copy of V. I. & C. Co. contract, marked "Exhibit 78,"—(copy to be furnished).

Benjamin P. Cheney called and sworn ;

Examined by Mr. WALKER.

Q. Where do you reside? A. Boston.

Q. What is your occupation? A. An "Expressman," so called, or forwarder.

Q. How long have you been connected with the express known as "Cheney's Express," or Cheney, Fiske & Co.'s Express? A. Thirty-three years. It is now the U. S. & Canada Express Co. That Company has been in existence since March, 1869.

Q. Previous to that what was the name of the partnership doing the work? A. There were three partnerships prior to that. Cheney & Co.—doing the business over the Northern Line of Road and the Central and on to Montreal. Fiske & Co.—over the Rutland Line to Burlington. and Cheney, Fiske & Co.—over the Ogdensburg Road.

Q. Who composed the last organization you mentioned? A. Mr. Fiske, Mr. L——, Mr. White and myself.

Q. Who composed the firm of Cheney & Co.? A. Mr. White, of Concord, and myself. The firm of Fiske & Co. was formerly Fiske & Rice; when it became Fiske & Co. I was the partner.

Q. Now, is this present organization a partnership or organization? A. It is a partnership.

Q. Who are the partners? A. Mr. White, Mr. Gear, Mr. Langdon, of Plymouth. Mr. Fiske and my brother, who were both interested, died.

Q. When did you become one of the Managers of this Trust? A. I think in August, 1867.

Q. How long did you continue such? A. Up to 1873, the time the Central Vt. came in.

Q. Since that time you have been a Director of the Central Road? A. Yes, sir.

Q. As one of such Managers what part have you taken in the business of the roads? A. As I reside in Boston I have had very little to do with the detail of the management of the road, except at our meetings to consult and confer in the general cause such matters as were brought up.

Q. As a resident in Boston you had more or less to do with the financial transactions, had you not? A. Yes, sir.

Q. Such as disposing of loans, borrowing money, &c.? A. Yes, sir.

Q. At the time these leases were taken on did you familiarize yourself with those matters? A. I did some. At the time of the taking the Ogdensburg lease I had care of the collecting from and settling with the lower roads. There was at that time a constant turmoil between the Ogdensburg R. R. Managers and the lower roads;—there was far from a friendly feeling among them. With these embarrassments I became familiar, and it was thought advisable, if possible to do so on fair terms, to lease the Ogdensburgh Road. A consultation was held, Gov. Smith, Mr. Stark and Mr. Stearns being present, and they all seemed to agree that it was best to lease the road, if possible, and have peace.

Q. Did you expect from what you knew of the matter that the rents could be paid out of the earnings? A. I thought there would perhaps be a small loss the first year, but from the figures submitted to us it seemed that after the first year there need not be any loss in running the road. We thought business would develop and make the road pay. I think Messrs Stark and Stearns considered that the latter part of the contract would be very remunerative.

Q. Did you participate in the negotiations for the Northern Transportation Co? A. I had nothing to do with that.

Q. Did you have anything to do with the Missisquoi road and its construction, and of the guarantee of its bonds? A. No, sir.

Q. Did you have anything to do with the sale of those bonds, that is, the marketing of them? A. No, sir, nothing.

Q. Whether or not you participated in the negotiations of the Rutland Lease? A. I was present at the negotiation.

Q. And took part in it? A. Yes, sir.

Q. Was that lease approved by you and did you advise its execution? A. I did not. And here I will explain the matter. It is due to the other gentlemen that I should. I could not see a way out of that lease. I had doubts about it, and stated my objection at the time, and could not see how any money could be got out of it, but the other gentlemen saw differently. I was finally induced to yield, chiefly from the representations of Mr. Merrill, who thought a saving of \$130,000 could

be made in the running expenses. It was upon the strength of that statement that I signed.

Q. Was there any such saving effected? A. I don't think there was, sir. I think it was possibly an error of judgment on the part of Mr. Merrill.

Q. Have you ever participated in the earnings of the Sullivan R. R.? A. In the first place I had nothing to do with the lease of that road; except to help these gentlemen effect that lease from the Northern Road. It was considered doubtful whether Messrs. Clark, Brainerd and Smith had not taken a great risk upon themselves, still it was considered advantageous to this road that they should take that lease, and run the road for the benefit of the Central Road. In the operating of the road by the Central Road I know Mr. Merrill received instructions to run the road with great care, and if he leaned any way to lean against the Sullivan Road. He told me afterwards he had made up the accounts, with great care, and that if anyone was to blame with regard to the Sullivan Road it was himself. I had no interest in the road in any shape but in October '71 Mr. W. C. Smith, being in Boston, one day mentioned the fact that Mr. Brainerd having died, Mr. Clark and Governor Smith had talked the matter over and told him (Mr. Worthington Smith) that there was an amount of \$12,500 belonging to the last six months of 1870 which he and I might take and divide as we pleased. Mr. W. C. Smith thought that the fair way of dividing it would be for him to have \$7,500, and me \$5,000. I thought it was very kind of Mr. Clark and the Governor, but as nothing had ever been said by them to me, I did not feel like assenting, and I said nothing about it. On the 14th of December, 1871, I was in New York, at the Northern Pacific R. R. meeting, and just as I was leaving for home I stepped into the Governor's private room and asked if he had anything to communicate at Boston. He then handed me a draft upon Mr. Wilbur for \$5,000, without any explanation. I had not much time to talk to him for there were several round him. As the Governor had said nothing to me about it, and as I had an open account with him, I made a memorandum in pencil, to the credit of that account. When I testified here in 1873 I said I had received nothing from the Sullivan R. R. up to that time, but I had forgotten the circumstance. Sometime after that Mr. W. C. Smith said to me, "How came you to testify you received nothing from the Sullivan R. R.?" then Gov. Smith said, "I am sorry you should have misunderstood the matter; I thought my brother had explained it to you." That is the history of it, and from that time I have considered I had \$5,000, given to me by Mr. Clark and Gov. Smith, of the Sullivan R. R. funds.

Q. Have you considered since then that you were responsible for the obligations of that Lesseeship? A. No, sir, I do not consider that I participated in the lease at all. I had been at work seven years for the Trust and never received any compensation for it, and I thought afterwards that they considered I deserved something.

Q. Did you understand from what Gov. Smith said that you were to be considered as one of the parties to the lease? A. No, sir.

Q. Has it been your intention to do what you have done for this Trust without charge? A. I never have made any charge, although I have felt that they should pay me something for my trouble, labor and expense, but nothing was ever said about it. Gov. Smith has stated that I should be paid, but up to this day I have received nothing.

Q. What of the Trust loans did you superintend the negotiations of? A. Well, I don't know that I could give you any satisfaction in that respect. I tried some time ago to find Mr. Vila to get some memorandum from him but I could not find him. I think the first loan I had to do with was the third loan of \$1,000,000, but I won't be positive about it.

Q. Did you have anything to do with the guarantee loan? A. Yes, sir. I think that came out the time there was a surplus of Canada stock to be sold and two were disposed of together if I remember rightly.

Q. Was that the transaction that was unsettled and in Mr. Vila's hands at the time of his failure? A. No, sir, that was the income and extension bonds in his hands at the time of his failure.

Q. Did you have anything to do with that transaction? A. I had this much to do with it: We fixed upon the limit at which they were to be sold. The Board and Trustees were together and the question came up whether we should employ the same parties to sell the bonds who had disposed of previous ones, it was decided we would and I went and saw Vila in relation to it, and made arrangements with him to sell them. I think the figures was 90—still I am not positive.

Q. In starting that loan, yourself, Mr. Clark and Gov. Smith took \$100,000 each at that price in extinction of debts which you had against the Trust, did you not? A. We took \$100,000 at 90c, that is we paid \$90,000—at least I did in cash. I say cash—there were some notes which I held for money I had loaned the Trust from time to time, and I paid a little cash balance—I think about three or four thousand dollars. My impression is that the notes amounted to \$84,000, then there was the accrued interest.

Q. In relation to the loans you had anything to do with, Mr. Cheney, did you ever receive commissions for doing so? A. No, sir.

Q. Don't you remember instances when you received commissions? A. No, sir. I would say on behalf of the Receivers that the arrangement was made with the parties negotiating that there was to be no division of commission, or return of commissions or anything. The banks or brokers who negotiated these bonds of course claimed their commissions which I allowed them; I allude to parties in whose hands I had put the bonds to be negotiated. I remember that Mr. Vila claimed a commission on the whole of the bonds put into his hands, but some of them I took from Vila to assist in their negotiation and put them in the hands of other parties, and Vila refunded the amount of commissions which I had allowed to such parties.

Q. (By Mr. Davenport.) Do you mean that none of the commissions went into your pocket? A. Not a dollar that I know of went into my pocket. I received commissions to pay out to other parties.

Q. There is a voucher put in evidence for \$500, signed by you, said to be commission upon \$10,000 equipment loans, 2½ per cent. commission; you explain that? A. It is possible that was a loan negotiated before I came into the affair, possibly I paid out to some parties for commissions, it never went into my pocket.

Q. Do you remember negotiating a large number of income and extension bonds to the Washburn Iron Co.? A. Yes, sir.

Q. Did the Washburn Iron Co. take those bonds for notes of the Trust which they held? A. Well, I don't know. I recollect Mr. Vila and I had several conversations about that matter. I presume they paid Mr. Vila for the bonds. I never knew how they were paid for.

Q. On page 110 of this printed record there is a voucher as follows: "Paid Spencer, Vila & Co., \$1500 in bonds sold by B. P. Cheney, Jan. 26th, with this memorandum, 'W. B. Stevens, \$1500. Enclosed paid by Mr. Williams, and is for commission on bonds sold by Trustees to Washburn Iron Co.," etc.; here is the voucher itself, Mr. Cheney, will you explain that matter? (handing him the voucher.) A. I had supposed that you asked in relation to bonds negotiated by Spencer, Vila & Co. Vila claimed that he ought to have the commission, because he first negotiated the bonds. He was under the impression that it was to be a money transaction, and that the cash for the bonds would come into his hands. The Managers here and I had also been in correspondence with the Washburn Co. in relation to the sale of bonds to them, and I was in doubt whether I should pay Vila the commission. I consulted with Mr. Swift, president of the Fitchburg R. R. as to whether he thought the charges of S., V. & Co. should be allowed, and we came to the conclusion that inasmuch as Vila had spent time in negotiating the bonds, that it was fair to allow the commission, and I said to Mr. Wilbur that the amount should be paid.

Q. What issue of bonds was that? A. I think the guarantee bonds. The Washburn Iron Co.'s representative came to me and asked me about some bonds, but it seems he had also been to Vila about the bonds. I think Mr. Stevens had something to do with Mr. Vila in the negotiation of the securities—he kept them publicly for sale in the President's office of the Globe Bank. The Washburn Iron Co.'s representative told me he had been to Mr. Vila, and that if he took the bonds he should take them of Vila. I don't know who the Washburn Iron Co. finally did take the bonds of—they may have been sent from this office; at all events, Vila claimed the commission on the bonds, and as I have said, I did not think I ought to pay it, for I supposed that I had negotiated them; finally, I paid Vila the commission he claimed.

Q. Do you know what the rate of commission was? A. I think 2½.

Q. Was that the full commission which they received? A. I cannot say; the particulars have almost gone from my mind.

Q. Then I understand you that to your best remembrance this is a transaction about which there was some doubt as to the propriety of Vila's claim? A. I had some doubt; for, as I told you, I thought I

had negotiated the bonds, but the Washburn people had been to Vila before they came to me.

Q. Do you know why the amount was charged to interest account?
A. No, sir.

Q. There is another voucher which, perhaps, you can explain. It reads as follows:—"Boston, Nov. 5, 1872. Received of H. B. Wilbur, Treasurer, \$1,145 94 for one-half of loss on joint account with Spencer, Vila & Co., in selling Vt. & Canada stock and sustaining the market to do so. B. P. Cheney." A. Certain parties were trying to break down the market value of these securities, and Vila said he had been obliged to buy to sustain the market. I called and saw Mr. Stevens of the Globe Bank and another gentleman, and they said "If you allow this stock to be broken down you will not be able to sell it. You must sustain the market if you want to get rid of them." I then agreed to join Vila in the purchasing of the stock in order to sustain the market, until I could see the Board and confer with them about the matter. He went in and bought, and when the account was made up it showed a loss of so much. I took the advice of Mr. Swift upon the matter because I knew him to be an experienced financier, and a man whom I knew to be friendly to our interests. He said, "You must sustain the market." We did so and the paper soon began to take again at its par value. I stated the matter fully to the Board and they said I should not be allowed to lose in the matter, and when the account was made up I paid the money and received pay from Wilbur for what I had expended.

Q. (By Judge Poland). The expenditure was absolutely indispensable, was it not? A. Yes, sir.

Q. Was Mr. Vilas' half of this amount paid by the Trust? A. No, sir.

Q. Of course you had no interest in his commissions in the sale of that stock? A. No, sir.

Q. Supposing your speculation had resulted in a gain, should you have felt called upon to account for the gain? A. I should, sir. If we had made money it would have gone to the Trust.

Q. Who has been the principal manager of this express business during all these years? A. I suppose I have.

Q. Did you bring with you copies of the contracts under which it has been conducted? A. I never had a written contract. I have here a few items. I paid from January, 1861 to March, 1862, \$250 per month over the Central road. From March, '62 to March, '64, \$333 per month. From October, '64 to October, '67, \$500 per month. During those months there was also paid by Cheney, Fiske & Co. \$41.50 per month from Rouses Point down over this road. The following is where it all comes in together: From October, 1867, to January, 1869, including the Sullivan and Canada roads, \$1,275.00 per month.

From Jan., 1869, to the present time \$833.34 was paid for the services over the Vt. & Canada road and M. & Vt. June., that included the business of the National Co. as well as the business from Burlington to St. Johns. I made that contract, by permission, with the Board, because I had to step outside of my receivership, in connection with Mr. Virgil. We met here by appointment to see Gov. Smith and see what arrange-

ment could be made. About that time they wanted to run a car over the road from New York to Montreal. Previous to that we occupied a little place in the baggage car,—however we fell back upon the portion of the baggage car and did not have a whole car. The question was considered here in regard to price, and it was fixed satisfactorily, although it seemed afterwards that Virgil had offered a certain amount to Gov. Smith for his price.

Q. What was that amount? A. I think \$100 per month, or \$75—
we had a right to make any offer to run over the territorial Lines. There are maps showing the territorial Lines of each Company. Virgil afterwards said he could not carry out the proposition he had made to the Governor. It was then proposed that we should pay \$11,000 per annum for the business over the Central Road, for both of us—they were to pay \$8,000, we \$3,000. I thought \$3,000 was more than the local business here was worth; taking out St. Albans, there was nothing left; however, I submitted to it and paid the \$3,000. As I have said, I paid \$833.34 on the Central Road from Windsor to Burlington—116 miles, with the right to bring the Boston business from Essex Junction up here. I think that contract is the highest price paid in New England—it is the highest I know of. I felt that it was a very high price, but I knew it was a good contract for the Road; I should not have paid so much had I been an outsider. From the 1st of January, 1869, I have paid in addition, \$150 per month upon the Sullivan Road; and from the 1st of January, 1869 to 1870, paid \$83.33 per month on the S. S. & C. Road.

Q. Mr. Cheney, has the Express Company or Companies during any of this time owned any of the cars used on the road? A. No, sir. The Trust has furnished cars; as I said, we only occupied a portion of the baggage car, so that when there has been no express freight they have done no service for me in hauling the car. The National Express Co. furnish their own car.

Q. Have your contracts provided for any specific number of feet for the transportation of such merchandize as you require? A. There was nothing specified. We had no written contracts but it was understood that we should not take general merchandize except in case of necessity, which was to be defined by making a tariff which would be two or three times more than their 1st class rates and that will define the kind of freight which is carried by express. It would only be a case of emergency where a man would send by express goods he could send much cheaper by freight. By an arrangement with the lower roads I managed to get one apartment for the whole business through—that apartment has been furnished by the Northern and Central together.

Q. You have handled all the express freight that has come on the line at White River Junc. and Windsor? A. Yes, sir.

Q. And all the freight destined for point below Essex Junc. from the north? A. Yes, sir, on the Central Road.

Q. Do you run into Montreal? A. Yes, sir.

Q. Over the G. T. R.? A. Yes, sir.

Q. Do you have the business between Boston and Montreal and all the intermediate points? A. Yes, sir. The Montreal business from Boston is not large; it is chiefly done between New York and

Montreal. I mean the money business. There is still another arrangement which we have with the Central Road, that is, the carrying of all monies from station agents on the whole line. This used at one time to be carried by the conductors of the trains but there was several losses. Mr. Brainerd came to me to make an arrangement for the express do it, and when we made the contract for the express service Gov. Smith stipulated that we should do that service. For that we get nothing, although it costs us \$900 per year to keep a man in the office here to attend to the business, whereas if we got one-half the prices we charge anyone else we should get more than \$5000 per year.

Q. You refer to the remittances of monies from the station agents to the offices here, I take it? A. Yes, sir.

Q. Of course remittances made by draft or check would be sent otherwise? A. Yes, sir.

Q. Was the transportation of the Trust monies included in the contract? A. It was mentioned, I think, at the time. There are some kinds of articles carried for the road which are paid for, but I could not say what they are.

Q. Your contracts with the lower roads are by weight, are they not? A. Yes, sir, many of them.

Q. Do you rent the entire route from White River Junction to Boston? A. Yes, sir. From Nashua to Boston the local business is done by another concern.

Q. In the transportation of money from St. Albans to Boston, for instance, would you have to pay that Company anything? A. No, sir, we should carry it ourselves. We pay so much per year, or by weight, as the case may be.

Q. (By Mr. Davenport). With reference to the transportation of packages for the Trust; I have seen several vouchers for "back" express charges; what are they for? A. I presume for amounts which we have paid other express companies. Of course we charge this road such amounts as that, but as far as our service is concerned it is free.

Q. How many trains did you use daily previous to 1873? A. In the early part there was only one train per day.

Q. I mean just previous to 1873? A. My impression is that the trains ran previous to 1873 very much as they do now, which would be a train leaving here for Boston in the morning at 6:30 and another in the evening.

Q. And you had your messenger on each train? A. Yes, sir. Prior to that time we did not cover all the trains. I think as early as 1867 we covered all trains and ran a messenger, whether anything went or not; that made three per day out of here, South. We ran from Burlington in the morning and met the Ogdensburg train. We ran from St. Albans into Montreal in the morning.

Q. So that over the road from Boston to Essex Junction your messengers ran eight times daily? A. Yes, sir.

Q. And the National express ran twice daily making the total the ten times daily? A. I should think that was it.

Q. Then the facilities of the National Express Co., if I understand you, consists in this car which they provide themselves and which

constitute their line from Montreal to New York, passing over this road once a-day in each direction? A. Yes, sir.

Q. On what basis is the division made—tonnage or receipts? A. On both. We can make a statement of tonnage and one of receipts; but it is based on both. The National Co. carry a great deal more heavier freight than we do.

Q. There has never been any redistribution of the amounts paid since 1869, has there? A. No, sir. There has never been any desire to have it changed. The National have never found any fault with the price.

Q. You pay \$833 for the distance from Windsor to Burlington, which is 116 miles, how much is that per mile per year? A. I don't know sir. I never figured it out.

Q. Well, taking the distance from Windsor to Burlington at 116 miles, now at \$10,000 per year, I find it would be nearly twenty dollars per mile, taking three hundred days in the year, it would be 30 cents per mile for the distance for six trains, which would be 5 cents per mile each train for the transportation of the express messenger and his freight in a section of the baggage car. Is there any other class of freight or passenger transportation that is done at rates approximating to that? A. I don't know. I can only tell you one thing: this line of road, as you are aware, runs through such a route that there are a great many small places where there is nothing done. There are but few places that pay anything. If you will take out three places, I will pay the mileage to anybody who will run the balance of the route. It would be difficult to find a line of road where there are so many stations where you get nothing.

Q. Do you know what the road charges persons living on the line of the road, for passenger fares per mile? A. I do not. There is another thing you must consider. Our messengers and express packages run entirely at our risk; the road is not responsible for any injury or damage.

Q. What has been the tonnage that you have taken per year off the road at White River Junction? A. I could not tell you, sir. Sometimes there is no tonnage at all in the express car except the messenger boy.

Q. Can you state, Mr. Cheney, as to the amount of the gross receipts of your company during any year approximately for the business that comes off this road? A. I can at home. I could not tell the exact amount of business that originated and delivered on this line of road.

Q. Haven't you any idea, approximately? A. I should think it would not vary much from \$40,000.

Q. And I suppose on the other roads the business is equal to the business on the Central, proportionate to their mileage. A. Some are better or I could not get along.

Q. Now you mean to be understood do you that with the amount of business which you do, you consider 5c per ton per mile a high compensation for hauling your messenger and doing your work? A. I don't say anything about it—I never figured it on that basis. I think

there is a certain amount of accommodation which the community requires, but the railroad cannot accommodate them in. For instance, take the carrying of money, or of perishables, or valuables. In the carrying of such articles by an Express Co., the railroad company is relieved of all responsibility. You cannot figure it fairly the way you would propose to do it in the small towns where scarcely any business is done—yet still they are not the accommodation. We pay all we can afford to pay for the receipts we get; you cannot go into any such mathematical calculations; that—if there was a large business from station to station it would be a different thing.

Q. Then, if I understand you rightly, you put your own right to have your goods transported over the roads of this Trust at five cents per mile for goods and messenger on the ground that the express business is in the nature of a public benefit and one which the well being of the community requires; is that what you mean by your last answer?

A. I don't know that it is for me to decide about that—you may put any construction upon it you please. I have told you what I pay for the express, and the accommodation I have received—you may figure it out as you please, I shall not go into that.

Q. Then you are not willing to talk about this business on the basis of so much per mile. A. No, sir. I cannot go into it intelligently—I have never tried it.

Q. Do you know any reason why this express business cannot be done by the railroads themselves? A. I have reasons in my own mind. A railroad could not do it and mix it up with its own business in the first place; in the second place it involves an amount of liability and loss which neither the employees of a corporation nor the managers of a corporation can look after closely enough, and not like an individual who is making it his sole business. It has been tried at various times and abandoned. I could name all the roads in this country that have tried it, and they have found it advisable not to continue it. It has been deemed best by the railroads that the business be let to responsible parties to relieve the corporation of the responsibilities. One man with sufficient force under him to do the business can control that force better than a corporation with a force so large that they cannot have any eye on it all the time. I would not hold a share of stock in any corporation which intended to be at so much risk. The first year the Erie Railroad took that arrangement they lost \$500,000 upon it. The Eastern Railroad tried it, the Boston & Lowell tried it. Their manager has gone. I don't think I am alone in my conclusion that the business can be done better by one responsible individual than by a large corporation. Take a line of road in Great Britain. The distances between the towns are so short, railroads can do the business better there, but my impression is that it is getting to be an established thing in England for the business to be done by express companies. That's what it will come to.

Q. In your management of the business your local agents are the station agents of the railroad company, are they not? A. Yes, sir, generally at the smaller stations. The railroad and ourselves derive a mutual benefit from that.

Q. Then you employ the same men there to some extent that the railroad would have to employ if they did the business? A. Yes, sir.

Q. Of course you pay them a compensation for their services. A. Yes, sir. That helps out the salary paid them by the road.

Q. For instance, can you tell us what compensation you pay the station agent who does your express work at Waterbury? A. I think \$40 per month, but he is at some little expense in delivering the packages.

Q. Now, Mr. Cheney, your use of the cars of the Trust since you have been Receiver in the transporting of your express matter has been profitable, has it not, to your concern? A. Well, taking all the years together it has. Last year it was not profitable, and I don't think it will be this year.

Q. Can you furnish a statement of the profits which the Express Company with which you are connected made upon the roads of the Trust on business done there during the time you were Receiver down to July, 1873? A. I cannot. It is all kept together, and I don't think it could be separated from the gross.

Q. What other roads do you run over? A. B. & A. R. R.; B. & Clinton R. R.; B., C. & F. R. R.; B., C. & M. R. R.; B. & L. R. R.; B. & M. R. R.; Bristol Branch of the Vt. & Mass. R. R.; Concord R. R.; Concord & Portsmouth R. R.; Concord & Claremont R. R.; Contocook Valley R. R.; Contocook & Pass. R. R.; Cheshire R. R.; Fitchburg R. R.; Fitchburg & Worcester R. R.; Framingham R. R.; Manchester & Lawrence R. R.; Missisquoi R. R.; Monadnock R. R.; Montpelier & W. R. R. R.; Montreal & Champlain R. R.; M. & Vt. Junc. R. R.; Nashua & Lowell R. R.; Northern (N. H.) R. R.; O. & L. C. R. R.; P. & O. R. R., (East and West div.); R. & B. R. R.; So. Eastern R. R.; S., S. & C. R. R.; Sugar River R. R.; Sullivan R. R.; Suncook Valley R. R.; Troy & Greenfield R. R.; Turner's Falls Branch; Vt. & Mass. R. R.; Vt. & Canada R. R.; Vermont Central R. R.; Worcester & Nashua R. R.; White Mountains & White Mountain Branch R. R.

Q. Do you make out in your business, at any stated periods, trial balances showing your profits for such a period? A. Yes, sir.

Q. Are your accounts kept in such a way that the business upon each road is kept by itself? A. No, sir.

Q. You know the mileage of each road? A. Yes, sir.

Q. And you keep a record of the tonnage of each road? A. No, sir; only on the roads above here, because we run under that arrangement with them.

Q. Do you keep a record of the receipts from time to time, and from where they come? A. Yes, sir.

Q. Would it not be possible for you to furnish a statement which would at least be approximately correct of the profits made in the operations of the Trust roads since you have been receiver? A. I could not, sir. It would require a great deal of mathematical calculation to do it, and would then perhaps be far from accurate. I can give you the gross amount that has been received. I can get nearly at the amount

that has originated on the roads of the Trust, but I could not tell the expenses, you would have to jump at that.

Q. Will you furnish a statement as nearly correct as is reasonably practicable, of the profits which have been made by the Express Companies with which you are connected, by their operation on the Railroads of the Trust during the time of your Receivership? A. Well, sir, there is a point to which it is impossible to go, and I cannot do that; I don't believe in any way that would be satisfactory to myself or anybody else; it would be a mere estimation—a mere jump at an estimation. I will not promise to do it, because I cannot do it and do it correctly as it belongs to me to do, if I do it at all—it is utterly impossible for me to give it accurately, and to give it any other way but correct, would not be right on my part, and I say I will not do it. It would be a mere approximation—guess-work, and the estimation would perhaps be so wide of the mark as to be useless, and as for my guessing at testimony,—I have to give an oath—I will not do it. Any expressman will tell you it is an impossible thing to arrive at.

Counsel for Bondholders appeal to the Masters to order the witness to furnish the statement asked of him. Masters decline to make the order, to which ruling Counsel for Bondholders take exception.

Q. You say it would be a mere estimate if you were to furnish to the Masters such an estimate according to the best of your judgment of such profits. A. I don't know how I am to do it. It seems to me to be the same question as before. I am not here to refuse to produce anything that is wanted but it is impossible for me to render such a statement and I decline to.

Counsel for Bondholders request the Masters to instruct witness to furnish such an estimate. The Masters, in view of the answer given to the last question, decline to make the order.

To which ruling, Counsel for the Bondholders take exception.

Examination of the same witness by Mr. DAVENPORT.

Q. Mr. Cheney, at the time when you gave your approval to the Rutland lease did you have before you such statements as you admitted reliable of the earnings and expenses of the Rutland R. R. for the years previous to January 1st, 1871.

Objected to by Mr. Fifield on the grounds that it had relation to pending litigation.

AFTERNOON SESSION.

Question admitted by Masters in view of Mr. Davenport's assertion that it was put in good faith and had no relation to any pending litigation with the Rutland R. R.

Gyles Merrill re-called by Mr. Willard.

Q. Mr. Merrill, I want to ask you one question. Whether the books of the office show the expenses of operating the M. & Vt Junction Railroad. A. The books kept for that road do not show all the expenses.

Q. Has any exhibit been put into this case, to your knowledge, which shows total operating expenses of that road? A. I don't know, sir.

Q. Do you know what part of the operating expenses do not appear on the books? A. I think those of running the trains do not appear.

Examination of Benjamin P. Cheney continued:—

Mr. Davenport asks reporter to read the question which was put to Mr. Cheney just before the noon recess.

Q. Question read by reporter. A. There was no report submitted to the Board to look at, at that negotiation. There was a statement prepared which Gov. Page had. I put the question to him myself to know what the earnings were. He stated they had not the year made up, (because this was in December) yet he knew enough of the business in the month of December to warrant him in saying it was rising of a million of dollars, and it was upon that theory and that basis that we started our negotiation—that the Rutland was rising of a million of dollars, and they alleged they could run the road for 65 per cent. It had been previously stated to me by Mr. Barnard that he had looked the matter over and from Mr. Merrill's statement he was satisfied it could be run for 50 to 60 per cent. That was Mr. J. Barnard of Boston. There were present at that meeting Mr. Skillings, Mr. Barnes, Peter Butler, Geo. P. Hay, Gov. Page—I recollect those distinctly. I knew enough of the business to know that 35 per cent. could not be made out of it, because it was a competing business. Mr. Merrill thought that 25 per cent. was all that could be reasonably calculated upon—that would be \$250,000 on the basis of a million for the earnings. I opposed the lease upon any such terms. Gov. Page alleged that there was certain money in it. He said he would be very glad to take our road upon that basis. After the matter had been discussed some hours Mr. Merrill came to me with a statement he had figured in which he showed that from one hundred and twenty-five to one hundred and thirty thousand dollars could be saved in the expenses by working the two roads together; and as these gentlemen were unanimous in taking the lease, they wanted I should assent to it also. I thought there might possibly be a loss for a year or two, but I thought that if the saving which Mr. Merrill had figured out could be made the road might eventually be made to pay. That is a simple statement of the fact, and every word of it is true.

Q. You understood at that time from a verbal conversation that the earnings of that road were a million dollars per annum for the year 1870? A. Over a million, sir.

Q. Did you ask what they were in 1869? A. The question was asked, but I don't recollect what the answer was. I was more interested in 1870, because I knew they had put an increased equipment on the road in 1870, and I thought it was fair to take that year.

Q. You paid no attention to what the earnings were in years previous to 1870? A. There was nothing to tell us.

Q. Did you ask for the earnings of previous years? A. Yes, sir. They said they did not have them.

Q. Where was this meeting holden? A. At the Revere House, Boston.

Q. And you deemed it prudent, as one of the Receivers, to enter into this contract for 20 years without any knowledge of what the earnings had been, save for 1870? A. I have told you why I deemed it prudent.

Q. Well, did you deem it prudent? A. I did.

Q. Did you know the earnings were not a million that year? A. I did afterwards.

Q. What were the earnings? A. That is difficult to tell.

Q. Well, how do you know they were not a million dollars? A. The account was afterwards made up and shown to us.

Q. What did you understand them to be? A. Less than \$900,000, as near as I can recollect.

Q. Then you understand there was a misrepresentation to the amount of \$100,000 per year? A. Yes, sir.

Q. Now you say that Lawrence Barnes was present at the time this negotiation took place? A. Yes, sir. I asked Mr. Barnes if this statement was true, with regard to the earnings; he said he thought it was—he was not positive; he had asked Mr. Haven and Mr. Haven had given him the statement. Mr. Barnes had been Director of the Rutland Road for two or three years.

Q. Did Barnes concur with you that this lease would not be a profitable one? A. I think Mr. Barnes thought that in the end it would be a good thing.

Q. Did he himself sign the contract? A. I did not see him; I supposed he did.

Q. Do you know any reason why he did not—if he did not? A. No, sir; because he approved of it.

Q. What rent did you understand you were agreeing to pay for the Rutland Road per year? A. I think the first year was to be \$384,000—including something for the organization. I am speaking from recollection.

Q. What did you understand the rent was to be afterwards—was it on a sliding scale? A. Yes, sir.

Q. And the scale was to be increased in proportion, as it was thought the earnings would increase? A. Yes, sir. It was thought by some to be at a time just at the high rate of development, and it was supposed the business might increase further.

Q. You expected business would increase and develop with more rapidity? A. I did, sir.

Q. And in making that contract you did not take into consideration that the currency might go down to a specie basis and prices go down, and the results be entirely opposite to what you anticipated? A. No, sir. A large portion of the traffic from Burlington was carried at very low rates, and a large portion of business came from Schenectady which we had always supposed was a losing business. It was generally thought that we could raise the prices in the Burlington lumber business. In fact, we considered that several of the low rates could be advanced.

Q. Upon whose statement did you most rely, that of Gov. Page or Mr. Merrill's? A. Both. I relied on Gov. Page's statement because it was backed up by the members of his Board, and they all reported that the statement was correct; and I relied upon Mr. Merrill's statement of what could be saved in the expenses, because I knew him to be a careful man.

Q. Who did you most rely on? A. I had no reason to doubt either Mr. Merrill or Gov. Page. I relied equally on both.

Q. How much did Mr. Merrill succeed in saving? A. I don't know. I have never been conversant with the accounts here.

Q. Was it your judgment that 25 per cent. of the gross earnings was all that would be realized in the operation of that road? A. I will tell you, sir. I was satisfied from the character of the business they had done and so much of it low price business, that 25 per cent. was all that could be realized.

Q. Did you expect that there could be a greater percentage of net earnings to gross upon the Rutland Road than there had been upon the Central Road? A. No, sir.

Q. Were you not then aware that the proportion of net earnings to gross upon the Central Road did not equal 25 per cent.? A. No, sir; I was not aware of any such thing. A statement has been made, showing it to be 29 per cent. and another 31.

Q. Have you ever investigated to see if that was so or not? A. No, sir.

Q. How much did you expect would be the loss on the Ogdensburg Road the first year? A. Well, we thought that the first year there was a bare possibility of the loss being involved to the Line—not to the Central Road, but the Line—of not exceeding \$50,000. General Stark and Gov. Stearns made up some figures to that effect, and I took their statement, as I considered them competent men.

le. Then you relied upon the say-so of those men in approving of that case? A. Yes, sir.

Q. Did you examine for yourself the statements made yearly by the Ogdensburg Road of its gross and net earnings? A. I looked that over before we talked about the lease. We had some conversation with the President of that road about the lease and I looked over some statements that were made and saw they were steadily increasing.

Q. What did you understand you were to pay for the lease of the Ogdensburg Road. Did you understand that you had contracted to pay \$34,620 the first year. \$415,390 the next three years, and \$446,160 per annum every year thereafter, with an additional sum of \$15,000 for expenses of maintaining the organization each year? A. I have forgotten the exact amounts now, sir.

Q. Now, sir, had there been any year, in the reports to the stockholders, in which the net earnings came up to the amount you agreed to pay for the first year? A. We considered the business would increase.

Q. Do you mean that you speculated upon the chance of business improving? A. Well, whatever you choose to call it. We thought the actual growth of the business would be such as to warrant us in taking the road

Q. Did you approve, as one of the Receivers and Managers, of the payment of \$25,000 to W. C. Brown, as a retainer in matters connected with the negotiation of that lease, or business accruing out of it? A. I did approve of it. At least, there was a question as to what would be the amount he would require to put this thing through.

Q. Put what thing through? A. The arrangement for the lease. The Ogdensburg Road wanted he should also be retained as counsel. We considered Judge Brown would perhaps require \$10,000, but when he demanded \$25,000 for his services, we objected to such a large amount. I think he claimed there was an amount due to him for back services not paid for. We said we could not entertain that amount. General Stark and Mr. Stearns thought it better not to let the matter fall through. I thought it was an exorbitant figure, but I assented to it by not objecting to it.

Q. Do you understand this \$25,000 was to be paid for the purpose of removing objections which he had to the lease? A. No, sir; not exactly. I understand he claimed he had performed a service for this company, and I understand he was to include any future services he might perform in defending the validity of the lease. I think he was to be retained in the service of the road at \$2500 per annum, the first year's amount being included in the \$25,000.

Q. Was that, in your estimation, a judicious investment of the money of this Trust to pay a lawyer \$25,000 for helping to accomplish a lease? A. No, sir, it was not in my judgment. Still I thought with the lower roads it would be best to lease that road, and secure harmony throughout the line, and keep our line to the west. Some of the most conservative railroad men we have here thought it would be well worth the experiment, and I confess I thought it might be made a paying thing, and I think it would have done but for the great competition among the three great lines (which has nearly used some of them up). It was considered that Judge Brown could best arrange the thing, and overcome the objections of some parties to the lease. After that sum was paid he was to remain as counsel at so much per year. Now, although the line thought the amount he claimed was exorbitant, still they thought it was best to have the lease made.

Q. Did you approve and advise of the investment of the funds of this Trust in the sinking fund upon the N. Y. C.? A. I had nothing to do with that.

Q. Did you advise or approve of the setting apart a portion of the funds of this Trust as a secret service fund? A. I knew nothing of it, sir, until I saw it in print here.

Q. Then of course you did not advise or approve of it? A. I did not know for what purpose it was established, and I don't know now.

Q. Did you advise or approve of the expenditure of money Montpelier for the purpose of "resisting adverse legislation, or procuring favorable legislation" by Jo D. Hatch or any parties? A. No, I know nothing about it.

Q. Did you as one of the Receivers advise or approve of the expenditure of money for the purpose of procuring the charter or surven-

and locating the Western N. H. Road? A. I knew nothing of that sir, until afterwards. I think I heard that Gov. Smith and the Cheshire Road together had caused some recognizance or surveying to be done at the time

Q. And your approval was never asked or granted? A. No, sir.

Q. Has the arrangement by which the M. & Vt. Junc. R. R. has been operated by the Trust received your sanction, as one of the Receivers? A. I think in '69 or '70 I was called to St. Albans to meet Mr. Taylor and the rest of the board. Mr. Taylor was then spending a large portion of his time there with Gov. Smith in the management of affairs. The subject brought before the board was the M. & Vt. Junc. Road. We saw Mr. Merrill and asked him to give us a statement, which he did, showing the expenses were a fraction under 50 per cent. and the earnings a fraction over, he remarked that that was as it had been and that it would most likely increase. I went away feeling that the Trust had not been injured by the manner in which the road had been run. I then saw Messrs. Pinkerton and Drury and told them I thought it was time some permanent arrangement was made with the owners of the road. They thought they should have 50 per cent. unless we were ready to make some lease or purchase with them. A good deal of discussion came out of it not only with the bondholders committee but also with the board. Finally Mr. Clark said: "All we want is only what is equitable and fair, if you gentlemen will make some such contract we will trade with you." However, nothing definite was arrived at.

Q. Whether did you advise or approve of that proportion of 50 per cent. to Clark and Smith? A. Well, I thought it was right until some arrangement was made with them.

Q. Was it then and is it now your judgment that 50 per cent. was a fair compensation? A. I have since felt it was rather too much, but I did not at the time I speak of. I should say it was in 1870 or 1871 that we talked about it.

Q. I understand you to say that Mr. Merrill read a statement to you showing the operating expenses, and that they were a little less than 50 per cent. A. Yes, sir, more or less.

Q. Do you know what became of that statement of operating expenses? A. No, sir.

Q. Were you here when Mr. Merrill testified there had been no account kept of all the operating expenses, a short time ago? A. No, sir, I did not hear him.

Q. When did you first learn, Mr. Cheney, that Worthington Smith was receiving from the Trust a royalty or commission of \$3 on each 33-inch wheel; \$2½ on each 30-inch wheel; \$2 on each 28-inch wheel, and ½ cent per pound on each pound of castings furnished to the Trust? A. When I saw the statement, at the time of the hearing, in 1873.

Q. Had such knowledge been indicated to you before? A. No, sir.

Q. Do you remember any investigation into the prices? A. Yes, sir, at one time when Mr. Taylor was here. We had a meeting here to consider the matter. The Winter before we had had very bad luck with the wheels; they had been breaking in every direction. I understood

we bought the same wheels that other roads had bought who had not had as much difficulty. We said they must get a wheel which would stand better, and the question came up whether the wheels should not be built of all new iron. Taking into consideration the freight on the wheels made elsewhere and the extra price for having them made of all new iron, we decided to have the wheels made here. Since that time I have had nothing to do with such matters. I don't remember now what the contract was for the wheels, but I think it was something over \$20; perhaps \$24, but I may be in error.

Q. Will you tell the Masters when it was you had this serious trouble with the car wheels breaking, &c.? A. It was in the Winter of 1867-8, or 1868-9.

Q. You learned upon enquiry that up to that time the wheels had been made out of old iron re-cast? A. Yes, sir.

Q. Did you investigate at that time to find out what other roads were paying for new, first-class wheels? A. I wrote to the other roads, but I did not find any of them who were having wheels made of entirely new iron. It seemed a general complaint just then, of bad wheels, but we seemed to suffer mostly. Wheels were breaking on the lower roads, but not to the same extent as here; perhaps because they had better tracks. I made enquiries about the wheels at Concord, Worcester, the Whitney Wheel Co., Philadelphia and at Troy.

Q. The Ramapo wheel? A. Yes, sir; and at Malone, N. Y. I made these investigations then because I knew this wheel matter was coming up.

Q. Did you know that the master mechanic of this road had refused to use the wheels that had been manufactured at this foundry? A. No, sir. I think he was called into the meeting, and said something about the wheels, but I don't remember what.

Q. There were places in the country where passenger wheels could be obtained that the master mechanic thought was safe to put under cars, were there not? A. I don't know, he did not state so to us.

Q. Did you ascertain at the time where the B. & A. R. R. got their car wheels? A. Yes, sir; they got some at Worcester, some at Troy and elsewhere. I went to see the master mechanic of the B. & A. R. R. and talked with him about the matter; he said the wheels did not seem to be very good.

Q. And since that time you have never troubled to ascertain anything relative to the proceedings in respect to car wheels and castings. A. No, sir.

Q. Do you now wish to be understood that you have received none of the profits of the Sullivan R. R.? A. Well, sir, as I told you, I consider I have received \$5,000.

Q. Do you understand you have a right to receive something from that lease, proportionate to what you have received every six months? A. No, sir.

Q. Do you consider you have a moral or legal right to receive any portion of that money? A. No, sir, it was simply an act of generosity on their part.

Q. With reference to the services you have performed, was it for the Trust of which you are Receiver, or for the Sullivan Road? A. For the Trust.

Q. You don't understand that you have performed any services for Clark and Smith, lessees of the Sullivan R. R.? A. No, sir.

Q. Do you wish to be understood that you have never charged anything for your services on the Trust? A. Never, sir; directly or indirectly.

Q. Are we to understand that, as one of the Receivers, you make no claim against the Trust for your service as such? A. I have felt that this Trust should long ago have agreed upon something to pay me for my services. I thought the Court decided what we were to have and I thought the accounts had been settled yearly, but nothing has ever been said or done about it by either them or me.

Q. Did you put yourself upon ground by the advice of counsel in view of any possible liability as one of the receivers? A. I have had no counsel; I have generally keep as far from them as I could.

Cross-examined by Mr. UNDERWOOD.

Q. Whether these verbal contracts made with the railroad company in relation to the express were subject to revision every year? A. Yes, sir. There was no specific time when they were to run. They were from day to day, month to month, and were subject to changes whenever Mr. Merrill or the board thought proper to change them.

Q. (By Judge Poland.) You knew in reference to the sale of some sleeping cars to Pullman? A. I knew a sale was made.

Q. Did you know that the Trustees took in payment \$50,000 stock? A. Yes, sir, learned of it afterwards.

Q. Were you requested by them to take a portion of that stock? A. I was, sir, and took some; but it was some time after the arrangement was made for us to take it. I took it and paid \$10,000.

Q. The claim is that that stock was worth more than par at that time; what do you know about that? A. The stock was never in New York. I made an inquiry at the time. I did not want the stock but I said if it is to help along I will take some, and I took \$10,000, remitting the money then either to Mr. Williams or Mr. Wilbur. I think it once went as high as 112, and I wish I had sold at the time.

Q. Do you remember some short time before you took the stock of having a conversation with the Governor and his requesting you to ascertain its value? A. I think I did. I recollect that I made a considerable inquiries.

Q. (By Mr. Fifield.) There was a voucher which was presented for an amount paid a Mr. Pool, what was that for? A. There were two young lawyers in Boston; they claimed that the income tax paid upon gross receipts from railroads was wrong, asserting unmistakably where the law was wrong. I think the other roads also subscribed to this affair \$300 for the lawyers to commence to work on. Mr. Pool came to see me several times. I referred him to Gov. Smith. He

said he did not know the Governor. He came here, however, and had an interview with the Governor. He then went to Washington to see what could be done.

Q. You say you took \$100,000 of the income and extension bonds?
A. Yes, sir.

Q. And you delivered up paper you had against the Trust, and paid a balance of some three or four thousand dollars in cash. A. Yes, sir.

Q. At what price did you take them? A. Ninety thousand dollars for the \$100,000 bonds.

Q. Who fixed that price at 90c.? A. I think the committee at the Horticultural Hall. There were present Mr. Shaw, Mr. Converse and Mr. Bailey. I remember that they were present.

Q. And did they report to the adjourned meeting at the Horticultural Hall what price was fixed? A. Yes, sir.

Q. And the security holders were called upon at that time to take the bonds at that rate? A. Yes, sir; but I don't know how extensively. I was ill at the time, but I know a good many were called upon.

Q. Whether you cheated the Trust in that transaction. You gave up papers against the Trust for so much and paid three or four thousand dollars in cash? A. Well, I would be very glad to have the paper back again and give up the bonds. The bonds are selling now for 60 per cent., and the highest I have known them to go was 74, still they may have been higher.

Q. I suppose you paid their full market value for them? A. Yes, sir, fully.

Q. (By Mr. Davenport). What dividends did you receive upon your Pullman stock? A. I have received quarterly 3 per cent., that is 12 per cent. per annum.

Q. (By Mr. Walker). In reference to this purchase of income and extension bonds, Mr. Cheney, whether you knew at the time you purchased them that they were a lien in advance of the lien on the Vt. & Canada and Mortgage bonds of the Vt. Central? A. Yes, sir.

Court here adjourned until Tuesday, Sept. 28.

TUESDAY, SEPTEMBER 28TH, 1875.

Court re-assembled at 9 o'clock this morning.

Mr. Davenport read the deposition of Reuben Stewart, Keene.

Mr. Walker read the deposition of H. S. Marcy, of Albany, and also a statement from George A. Merrill, of the Passumpsic Railroad, relative to prices paid by that road for car wheels and castings; also, the statement of C. Grenville Hammond, of Chicago, in reference to the sale of Pullman palace car stock in Chicago, between April, 1871, and August, 1872; likewise, a statement of Joel M. Haven, of prices of car wheels and castings as paid upon the Rutland Railroad, from the year 1865 to 1869, inclusive.

Mr. Walker also handed to the Masters a copy of the Report of Investigation Committee, the evidence therein having been marked at such places as he desired the attention of the Masters drawn.

Mr. Walker:—During the recess I prepared a notice of various matters that had been called for in the testimony and not furnished, as we understood they were to be, and also some matters that had not been previously called for, which I sent to Gov. Smith. I should like to ask him now if those papers were ready.

Gov. Smith said he thought most of them were ready, and would be produced.

In reply to a question by Mr. Fifield as to whether the town bonds of the Missisquoi Road were not sold at 80c, Gov. Smith answered in the affirmative.

The following exhibits were then put in by Mr. Walker:—

Statement of cost of construction of the Montreal & Vermont Junction Railroad, marked "Exhibit 79."

Contract with Linsley for the construction of that Road, marked "Exhibit 80."

Contract with Barnard for construction of Swanton Branch, marked "Exhibit 81."

Mr. Walker:—I understand there are no books, statements, vouchers, or papers connected with the construction of the Swanton branch which the receivers can produce.

Statement of Gov. Smith's private account—three papers—marked respectively "Exhibits 82, 82a, 82b."

Specimen of engraved letter heading of the C. V. R. R., marked "Exhibit 83."

Mr. Walker called the Masters attention to the report of Messrs. Pinkerton and Drury, which appears in the first report of the Trustees, February, 8, 1865.

Statement of liabilities, July 1st, 1873, marked "Exhibit 84."

Contract with the National Car Co., marked "Exhibit 85."

The book containing the records of the bondholders' meetings, alluded to by Mr. Pinkerton in his evidence was produced by Mr. Fifield, who read one of the records as a specimen, Nov. 30th, 1870. Mr. Fifield also read the minutes of the annual meeting of the bondholders in 1865 from the same book.

In reply to a question by Mr. Walker, Gov. Smith stated that the first excursion of the bondholders over the S., S. & C. Road was on June 22d, 1865, and the second excursion June 20th, 1867.

Mr. Walker then read an extract from the Vermont and Canada records, of the Directors' meeting January 5th, 1871; a copy of which extract he offers in evidence,—marked "Exhibit 86."

The Book of Records of the Vermont Central First Mortgage Bondholders was then put in,—marked "Exhibit 87."

Copy of estimate given to Mr. Drury of the cost of the Montreal and Vermont Junction Railroad,—marked "Exhibit 88."

Two copies of vouchers, numbered respectively 1395 and 1588, were then filed and marked "Exhibits 10^A and 10^B"; to be taken in connection with Exhibit 10 already in the case. The two vouchers in question relating to the Bolton lands. With reference to these lands, Mr. Worthington Smith read a copy of a letter from the Government of Quebec to Mr. Ferrier of the Ives Mining Company, said letter being dated January 11th, 1871.

Q. (By Mr. Walker.) Mr. Smith, in the paper you have just read, mention is made of an agreement—have you that agreement? A. I think the agreement referred to was simply a correspondence with my brother and himself, or Mr. Huntingdon, in reference to the construction of the tramroad.

Q. Do you know if there were any other agreements that the issue of the patent was subject to? A. Not at all.

Q. That Road as first constructed was not satisfactory was it, but was improved, iron laid instead of wood, etc., was it not? A. Yes, sir.

Q. Was that done subsequent to July 1873? A. Well, mainly before that time, I think; some little portion may have been subsequent.

Q. Have the Bondholders been over that Road since 1867? A. I think some of them, but I don't remember who.

Q. (By Mr. Fifield.) What was the expression of the Bondholders when they went over the Road—did they think it would be profitable?
A. Taking the position of the Mines into consideration, they thought it would be profitable.

Exhibits 38 and 43 were then put in.

Governor Smith called by Mr. Willard.

Q. I understand there has been nothing paid to the Vermont and Canada Railroad by way of rent since June, 1872. What was the amount of rent they would receive at that time? A. \$120,000, I think.

Q. That would be every six months? A. Yes, sir; four per cent. upon three million dollars.

Q. So that up to the 1st of July, 1873, there would be due two payments of \$120,000 each, or \$240,000? A. Yes, sir, \$240,000 would be due.

Mr. Willard remarked that he should like to have a statement made up showing the losses by the Rutland Railroad and Ogdensburg Railroad Leases for the 13 months ending July, 1873. The statements already furnished being made in gross, the items he required could not be ascertained therefrom; he would like the Masters to have that information before them.

Alfred Coote re-called by Mr. Fifield.

Q. Mr. Coote, I show you Exhibit 17^A being an inventory of property belonging to the Trust, July 1, 1873, and ask you if that is a correct transcript from the books containing that inventory? A. Yes, sir, I believe it is.

Q. I show you "Exhibit 1^A"—cash summary 1861 to 1873, and ask you if this is a summary of the cash book? A. It is, sir.

Q. Does that embrace a summary of the entire cash that come into the hands of these managers from June 1, 1861 to July 1, 1873? A. It does.

Q. And every dollar of cash disbursement? A. Yes, sir.

Q. And is a correct summary from the cash book? A. It is, sir.

Q. I call your attention to Exhibit 2^A—statement of cash receipts and disbursements of the Trustees and Managers Vermont Central Railroad and Vermont and Canada Railroad from 1861 to 1873. Does that embody the cash receipts and disbursements on the two roads during that period? A. Yes, sir.

Q. And is a specification under the exhibit which you have just read, is it? Yes, sir.

Q. And is correct—is it? A. It is.

Q. I show you Exhibit 5^A—statement of cash receipts and disbursements Rutland Road from 1871 to 1873. Is that a correct statement of the cash receipts and disbursements on that Road during that period?

A. Yes, sir.

Q. And it is a specification under the general summary marked 1^A?

A. Yes, sir.

Q. I call your attention to Exhibit 6^A. Statement of cash receipts and disbursements of the Trustees and Managers upon the Missisquoi

Road from 1871 to July 1873; is that a correct statement of the cash receipts and disbursements upon that Road during that period? A. It is.

Q. And is it a specification under the general summary marked 1^a? Yes, sir.

Q. I show you Exhibit 7^a. Cash receipts and disbursements upon the Addison Railroad from 1872 to July 1873; is that a correct statement of receipts and disbursements on that Road during that period? A. It is.

Q. And is that a specification under the general summary 1^a? A. Yes, sir.

Q. I call your attention to Exhibit 8^a. Statement of cash receipts and disbursements on Whitehall and Plattsburg R.R., Southern Division, 1872 to 1873. Is that a correct statement of cash receipts and disbursements upon that Road during that time? A. Yes, sir.

Q. And is that a specification under this general summary marked 1^a? A. It is.

Q. I call your attention to "Exhibit 9^a"—statement of cash receipts and disbursements, Montreal and Plattsburgh Road, from 1871 to July, 1873, is that a correct statement of those cash receipts and disbursements upon that Road during that period? A. It is.

Q. And is it a specification under this general summary marked 1^a? A. Yes, sir.

Q. I call your attention to "Exhibit 10^a"—statement of cash receipts and disbursements on the Vt. and Mass. R.R., from 1871 to July, 1873, is that a correct statement of the cash receipts on that Road during that period? A. It is.

Q. And is it a specification under the general summary marked 1^a? A. Yes, sir.

Q. I show you "Exhibit 11^a"—statement of cash receipts and disbursements upon the Vt. Valley Road from 1871 to 1873, is that a correct statement of the cash receipts and disbursements upon that Road during the time mentioned? A. It is.

Q. And is it a specification under this general summary marked 1^a? A. Yes, sir.

Q. I call your attention to "Exhibit 12^a"—cash receipts and disbursements upon the O. & L. C. R.R., from March, 1870, to July, 1873, is that a correct statement of the cash receipts and disbursements upon that Road during that period? A. It is.

Q. And is it a specification embraced in the general summary 1^a? A. Yes, sir.

Q. I show you "Exhibit 13^a"—cash receipts and disbursements Whitehall and Plattsburgh R.R., Northern Division, is that a correct statement of the cash receipts and disbursements upon that Road during that period? A. It is.

Q; And is it embraced in the general summary 1^a? A. Yes, sir.

Q. I show you "Exhibit 14^a"—cash receipts and disbursements upon the Vt. Central and Vt. and Canada R.Rds., from December, 1871, to July, 1873, is that a correct statement of the cash receipts and disbursements by the Treasurer, at Boston, during the period named? A. It is.

Q And is it a specification under this general summary marked 1^a? A. Yes, sir.

Q. I call your attention to Exhibit 3^a, cash receipts and disbursements upon the S., S. & C. Road from July 1st, 1862, to Aug., 1870. Is that a correct statement from the books of the cash receipts and disbursements upon that road during that period? A. Yes, sir.

Q. Has that statement been brought in as a specification under the general summary, 1^a? A. I believe not, sir. That does not go in the general summary for the reason that it embraces the receipts and disbursements from 1862 to 1870.

Q. And the clerks supposing that the road was run privately by Gov. Smith prior to 1866, did not bring it in, but it is embraced in another specification? A. Yes, sir.

Q. I show you Exhibit 4^a; receipts and disbursements of Trustees and Managers upon S., S. & C. Road, from 1st Aug., 1870, to July, 1873. Is that a correct statement of the receipts and disbursements upon that road during that period? A. It is.

Q. And it is a specification under this general summary, marked 1^a? A. Yes, sir.

Q. I show you Exhibit 24^a, Vt. & Canada stock account; does that Exhibit show the disposition of all the Vt. & Canada stock which has been issued? A. Yes, sir.

Q. And it shows in detail the disposition of the 1st, 2nd, and 3rd issues? A. The receipts and disbursements appear in the cash book and are not detailed here.

Q. But a general reference is made to it there? A. Yes, sir.

Q. I show you Exhibit 18^a; statement of First Equipment Loan. Does that paper show the disposition of the First Equipment Loan of \$700,000? A. It does.

Q. As stated on the books? A. Yes, sir.

Q. I show you Exhibit 19^a; statement of Second Equipment Loan account. Does that show the disposition of the Second Equipment Loan of \$300,000? A. The detail of receipts and expenditures of this amount are duly entered upon the cash books. The details are not given on this statement.

Q. But that makes a general reference to where they can be found on the books. A. Yes, sir.

Q. The books show the disposition of that money according to that statement, do they not? A. Yes, sir.

Q. I show you Exhibit 20^a; statement of Third Equipment Loan account, \$500,000. Does that show the disposition made of the funds arising from that loan, or give a reference to the books whereby it can be ascertained? A. There is a reference to the books by which it can be ascertained.

Q. Was the money disposed of as shown in general terms on this statement, and is that as it appears upon the books? A. Yes, sir.

Q. If it went in cash it would be a cash disbursement, embraced in the general summary I first showed you? A. Yes, sir.

Q. I show you Exhibit 22a. Does that statement show the accounting for the Vt. Central guarantee bonds, and the disposition of that sum? A. It does by reference to the cash books and journals.

Q. I show you Exhibit 21a—statement of Fourth Equipment Loan, \$500,000. Does that statement show the disposition and accounting of those bonds, by reference to the books, as to how the money was received and disbursed? A. Yes, sir, in the same manner as the others.

Q. I show you Exhibit 23^A Statement of Income and Extension Bond Account. Does that show the disposition of such of them as have been disposed of and give reference to the books where the receipts and disbursements of that loan are particularized? A. Yes, sir.

Q. And it also shows the balance on hand? A. Yes, sir.

Q. Was that balance turned over to the C. V. R. R. when they were appointed Receivers? A. I believe so, sir.

Q. I show you Exhibit 25^A statement of S., S. & C. Bond account; does that show in detail the issue and disposition of those S., S. & C. Bonds? A. Yes, sir, as appears by the books.

Q. And is correctly made up, is it? A. Yes, sir.

Q. I notice that there was a balance of cash on hand, as appears from this summary marked 1^a on July 1st, 1873, of \$133,733 77 in the hands of the Managers to balance their accounts. Was that money transferred to the C. V. R. R. new managers? A. It was.

Q. And you say there was turned over, that balance of cash in hand, to the new Receivers? A. Yes, sir.

Q. And was all the property inventoried on that date, 1st July, '73, was that all turned over to the new managers? A. Yes, sir.

Q. According to the inventory—a summary of which is filed? A. Yes, sir.

Q. Have you got a book which shows the bondholders' receipts for these S., S. & C. Bonds in 1867 or '68? A. I don't know. There may be one in the Treasurer's office, but I don't know for certain.

Cross-examined by Mr. WALKER.

Q. Mr. Coote, did you make up these accounts? A. Yes, sir.

Q. Referring to number 12^a, which is a statement of cash receipts and disbursements upon the O. & L. C. Road for instance, in what way did you prepare this account and from what sources? A. We took the Ogdensburg cash book and made up the statement as you see by every six months, bringing the balance down each six months, and commencing the next six months with the balance brought down, and going on in that way.

Q. Then this statement is a summary of both sides of the Ogdensburg cash book? A. Yes, sir. It comprises passenger receipts, freight receipts, rents, sleeping cars and other items.

Q. From what sources are the passenger items obtained? A. Remittances from Station Agents.

Q. Is that all? A. Remittances from conductors.

Q. Yes, is that all? A. Well, I cannot say definitely, I am not familiar with those books.

Q. Supposing a ticket was sold at St. Albans, for instance, for use over that road from St. Albans to Ogdensburg, would that amount or any part of it come into this Ogdensburg book? A. The proportion belonging to the Ogdensburg Road would, I believe.

Q. Are you sure about that? A. Well, I am not sure. I think that is the way they keep their account, I may be mistaken.

Q. If that is correct, where would the division be made? A. In the general ticket office here.

Q. (Mr. Fifield.) It would be made in the general ticket office here, would it not? A. Yes, sir.

Q. Supposing a ticket was sold at Boston for Ogdensburg, would any portion of that come into this account? A. I presume the proportion of the Ogdensburg Road would, sir.

Q. Are you sure about that? A. I am not sure, as I said I am not familiar with the book.

Q. Suppose the ticket was sold at the Boston and Lowell office and the account was settled between the Boston and Lowell and Vermont Central Road, monthly, would this item come into this cash account of the Ogdensburg Road? A. The proportion belonging to the Ogdensburg Road would be charged to the Boston and Lowell Road, and included in the balance between that road and this.

Q. The question is whether this Ogdensburg Railroad proportion would go into this account as cash received for the Ogdensburg Road? A. I don't think they go in as cash receipts, but as an indebtedness against the Boston and Lowell Road, and the Ogdensburg Road gets its due credit in the adjustment of the accounts in the ticket office before being rendered to us.

Q. Then accounts with connecting roads are settled in gross monthly, with the different roads and a balance struck? A. Yes, sir.

Q. So that the cash for all these items of tickets sold and freight monies collected do not come into the hands of the Trust, in any form, as cash, do they, except as balance? A. The proportions which each of the Roads charge over to the Trust Roads appear in the general balance charged against the respective Roads, from both passenger and freight departments, and are collected monthly from them.

Q. I don't want to misunderstand this matter. I say the actual cash does not go into the cash book in all cases as actual cash received, but only as a balance against the Trust. Take the G. T. R., for instance, suppose there was a balance in their favor, more than that Road had received for the sales of tickets and monies for freight over this line; then no part of that cash would go into the Ogdensburg cash book would it? A. Well, for tickets sold for the G. T. R. over the Ogdensburg Road, for which cash is received at the different stations, that cash is remitted to the Treasurer here, and would, of course, be entered in the Ogdensburg cash book, and the balance in favor of the G. T. R. would be paid to that Road at the end of the month.

Q. My question has reference to money received for tickets and freights by the G. T. Ry. on their line, whether those monies come into the hands of the Trust in any way whereby they could get into the

Ogdensburg cash book. A. No, not if the balance is in favor of the Grand Trunk Railway.

Q. Then there is a certain proportion of the business done over the Ogdensburg Road not represented upon this cash statement, is there not?

A. All the cash actually received by the Treasurer on account of the Ogdensburg Road, and amounts disbursed by him for that Road, appears upon that statement. I cannot answer your question in any other way.

Q. I think you can, your answer does not refer to my question, the reporter will perhaps, read my question. (Question read.) A. I misunderstood your question, sir. Nothing appears upon that statement but the actual cash received by the Treasurer and disbursed by him here.

Q. Then it is true, is it not, that there is a certain proportion of the business that does not appear upon this statement? A. Yes, sir, the proportion of the business which applies to the connecting Roads with which we are dealing.

Q. And which you settle with them? A. Yes, sir, monthly.

Q. And that is true in reference to all such accounts, is it not? A. Yes, sir.

Q. Payments that are made to the Sinking Fund of the National Transportation Company, under the N. T. Contract, do not appear in this statement, do they? A. No, sir, they appear upon the statement of the Vt. Central and Vt. and Canada.

Q. Upon what statement of the Vt. Central and Vt. and Canada?

A. They are summarized in that cash statement which you have there marked No. 2^a.

Q. Do the payments of rent to the Rutland Road that are made by the Connecticut River Road and Cheshire Road appear in this statement, 2^a? A. Those of the Cheshire Road do because they are cash. Those of the Connecticut River do not, because they pay the Rutland Road and transmit the receipt to the Treasurer which appears as a journal entry.

Q. Is not the Sinking Fund of the N. T. Co. settled in Boston through the Boston and Lowell office. A. Yes, sir.

Q. And do those monies come into the hands of the Treasurer here and are they paid out again afterwards? A. They are paid out by the Boston and Lowell Railroads, I understand. We are rendered with a statement of these payments by the Boston and Lowell.

Q. Then they do not come into the hands of the Trust as cash? A. I believe not, sir.

Q. Then they do not appear in this statement 2^a? A. No, sir; not these payments which you refer to.

Q. Then if I understand these statements aright, they only refer to those portions of the earnings which are actually in the hands of the Treasurer as cash? A. Exactly.

Q. I suppose there is no account of loans, where money is borrowed. The receipt appears on here and the payment? A. Yes, sir.

Q. How is it in cases of the renewal of a loan, does the money appear a second time as a receipt or payment? A. If the money received or paid it does, not unless.

Q. But if a new note were given and the old note taken up there would no entry of it be made on the cash book? A. No, not on the cash book; that would appear on the journal.

Q. (By Mr. Dennison.) An amount paid to renew that note would be on the book, would it not? A. Yes, sir.

Q. And the receipt would, I presume, also appear? A. Yes, sir, if it was paid.

Q. Are the monies embraced in the Secret Service Fund, so called, included in this statement 2^a? A. That is a matter I have never examined into. I cannot say.

Q. Then you did not have that book in your hands when you made up this statement? A. No, sir.

Q. You had simply the general cash books of the outer office? A. Yes, sir.

Q. How long have you been Clerk for this management? A. I came here in March, 1872.

Q. I notice that the statements which were filed in Court on the 30th December, 1873, of the earnings and expenses of the Vt. Central and Vt. and Canada Road did not contain any receipts by way of rent since 1868. Is there an account upon the books at the present time showing the receipts from rent? A. There is.

Q. How is that account carried into this statement of earnings and expenses, for instance, in this Exhibit of the earnings for seven months to the 1st of July, 1873, (handing statement to witness) do the rent receipts appear in that statement, if so, where? A. You will notice that upon this statement there is a large debit to rent account \$5,558.60, that is, the debit side exceeded the credit by that amount for that six months.

Q. Is that the case in the earnings and expenses for six months ending December 1st, 1869? A. No, sir.

Q. Was the National Despatch Line in operation prior to June 1st, 1873? A. Yes, sir.

Q. In what manner did the cash from that Line come into the Trust? A. There is no cash received; there is cash paid to them as car service.

Q. I do not refer to the National Car Co., but to the organization known as the National Despatch Line. Is there any such organization and was there prior to July, 1873? A. I do not know of any, sir, not by that name.

Q. The equipment loan monies, which are referred to in this voucher, which you have verified this morning, and of which the destination is expressed by reference to the cash book, at certain pages, went into the general fund of the Treasurer and were paid out as appears by the cash book? A. Yes, sir.

Q. They were not specially appropriated? A. No, sir, except in the case of the first.

Q. Has there been a receipt taken from the Central Vt. Railroad Co. of the property on hand July 1st, 1873? A. I don't know of any formal receipt being given.

Q. Has there been an inventory of the property on hand at that time in full made out? A. Yes, sir.

Q. Do you know in what form the \$133,000 which are represented as being on hand in cash at that time existed, whether as money, or as cash memorandums, checks, and drafts, &c.? A. That I cannot state. I think most of it was in money, but not all of it.

Q. If I understand you, the statement marked 3^a, receipts and disbursements, on S., S. & C. Road, from 1862 to 1870, is in addition to the summary marked 1^a for the period stated? A. Yes, sir.

Q. Do you know whether any monies were paid into the Treasury of the Trust during that period down to 1870 from the earnings of the S., S. & C. Road? A. I think there were, sir.

Q. In what form would they appear and where? A. As remittances to the Treasurer.

Q. This period, August 1st, 1870, is the time when the books of the S., S. & C. Road were brought here from Waterloo, and after that they were kept in this office? A. Yes, sir; I believe so.

Q. Have you ascertained whether there were any such remittances or receipts upon the Trust books during the period prior to that time? A. I have not examined into that.

Q. Can you state from an examination whether there are any; and also whether there are any upon the Trust books, prior to the date of purchase of the S., S. & C. Road, by the Trust? A. I can tell by reference to the account.

Q. And will you please do so? A. Yes, sir.

Q. There has been, has there not, in the management of the S., S. & C. Road, a considerable business done in the way of sales of wood, ties, and lumber? A. Yes, sir.

Q. Do you remember whether the receipts and payment on account of that business appear upon the statement of earnings and expenses that were filed in Court originally? A. For what time have you reference.

Q. From 1862 to 1870? A. There were no returns made to the Court for that time.

Q. Well, there has been an Exhibit put in evidence covering that time, do you remember whether that includes anything further than the earnings from transportation, and the operating expenses? A. I think monies arising from the sale of cordwood are included.

Q. Can you state by examining the statement whether or not those earnings include all the earnings of the Road from sales of property and from earnings of the Road—that is, from transportation? A. I think they do; I am not familiar with those books.

Q. Where was this statement made up? A. In my office from the books.

Q. Did you prepare it? A. Yes, sir.

Q. Your statement in relation to these papers is that they are correct transcripts from the books? A. Yes, sir.

Q. You do not know anything further from the cash receipts and disbursements other than what appears in the book? A. No, sir.

Re-examined by MR. FIFIELD.

Q. Is it possible for any money to go out of this Trust without its appearing upon the cash book? A. No, sir.

Q. State why that is so? A. The Treasurer is, of course, responsible for every cent of the money he has on hand, and for every payment out of that fund there has to be a voucher, which voucher appears upon the cash book, duly entered.

Q. That shows as to the disbursements, now as to the receipts; where do they go to, does any money received go into Gov. Smith's pocket privately, or into the hands of the Treasurer? A. Nowhere else but into the Treasurer's office.

Q. And if Gov. Smith wants \$5,000 in money he has to leave his voucher and it appears on the books charged against him? A. Yes, sir.

Q. Now in respect to those papers which were filed in Court December 30th, 1873. Do they show the earnings and expenses of these Roads every six months? A. Yes, sir.

Q. They do not profess to show the receipts and disbursements in cash, do they? A. No, sir.

Q. Those papers of December 30th, 1873, then, show what each Road earned for each six months, and what the expenses on that Road was for each six months, and also what the net earnings was for each six months? A. Yes, sir.

Q. And those papers are kept for the purpose of showing what each Road has earned, and the expenses of each Road? A. Yes, sir; that is all.

Q. These Exhibits filed before the Masters are of a different character, are they not? A. Yes, sir.

Q. Those Exhibits show the entire amount of cash received and disbursed, do they not? A. Yes, sir.

Q. And that is the difference in the two series of statements, is it not? A. Yes, sir.

Q. Now this "Exhibit 3^a"—receipts and disbursements upon the S. S. & C. Road. That is an Exhibit of the receipts and disbursements, is it not? A. Yes, sir.

Q. It is not the earnings and expenses? A. No, sir.

Q. Do you know whether that embraces this sale of wood, &c.?

A. I think in a few instances the money received for the sale of cord-wood is credited as earnings.

Q. Was the cost of wood charged to the expenses in the same way on the books? A. I don't know for certain; I am not very familiar with those books.

Q. Are not the old S. S. & C. books in considerable confusion?

A. Yes, sir; they were kept in a very peculiar manner by Mr. Fourdrier, which I could not understand them.

Q. You have testified that these Exhibits filed before the Masters embraces every dollar received and disbursed? A. Yes, sir.

Q. Mr. Walker has asked you if one of those statements shows the amount disbursed for the Sinking Fund of the N. T. Co., and you stated that that was contained in another statement. Is not that amount

taken out in Boston before the balance is made up between your Road and the lower Roads? A. Yes, sir.

Q. So that it does not actually come into your hands as cash? A. No, sir.

Q. What you receive is your balance due after the deduction is made for the Sinking Fund, and that balance you receive as cash, and it goes into the account? A. Yes, sir.

Q. As to the Rutland rent, I believe you say that does actually come into the cash account; that is, the disbursements made by the Cheshire and Connecticut River? A. Yes, sir; the Cheshire Road does, but the Connecticut River Road is a journal entry.

Cross-examined by MR. WILLARD.

Q. Do you mean to imply that these books are accurate from the system of keeping them any more than that they appear to be accurate? A. They are accurate, because they balance to the cent each month.

Q. In other words the books themselves appear to be accurate? A. Yes, sir, they are accurate.

Q. Of course, you have no knowledge as to whether the Treasurer accounts for all the monies he receives; you have no personal knowledge as to that, have you? A. I am guided entirely by his cash book.

Q. The question is whether the cash book shows accurately all the cash that is received by the Treasurer? A. Yes, sir, it does; it has never been thought otherwise.

Q. But you have no personal knowledge upon that matter? A. Well, I don't think he receives any money that he does not account for.

Q. I did not ask you for your opinion. I asked you if you have any personal knowledge on that subject? A. No, sir, I have not.

By MR. WALKER.

Q. In reference to your settlements with other Roads, for monies of the Trust in their hands, whether the books here would show anything except what the Treasurer charges himself with as having received? A. That is all, sir. The books would show the balance; the actual receipt.

Q. So that if there was a draft made by the Treasurer or Trust upon one of the other Roads for any purpose, or in application of the earnings made by them it would not be included in your statement? A. No; but we should know of it.

Q. But it would not be included in these cash statements, but would know of it in the settlement, of course? A. Yes, sir.

Court took recess until 2 p. m.

AFTERNOON SESSION, TUESDAY.

Court re-assembled at 2 p. m.

Mr. Worthington C. Smith re-called by MR. FIFIELD.

Q. I desire to call your attention to the report of the Masters, filed April 8th, 1862, which adjusts the accounts down to the 1st July, 1871; by that report a balance is found against you of \$29,416.37. Will you state, Mr. Smith, whether that balance is brought forward and embraced in the accounts which we have filed before the Masters? A. It is not brought forward specifically that I know of, but it is embraced in the statement that is presented.

Q. Does this \$29,416.37 represent property of some kind on hand at that time as a balance? A. I understand it represents the balance which that Board of Masters found between the receipts and disbursements on the Road up to that time.

Q. So far then as it represented property, was that property afterwards used up in the legitimate management of the Road, or if it represented cash, would that cash go into the cash account? A. It went along continuously in the regular operations of the Road, and is, of course, embraced in the present accounts. That is how I understand it.

Q. I want you to explain to the Masters in your own way whether the Trust has paid the Foundry Company here anything more than a just and reasonable compensation for castings and wheels from 1861 to 1873, and if you have made any comparison with the depositions which have been taken upon that subject; if so, please state the facts; show how the matter is, and what advantages there are in having the business done here in preference to other places? A. I understood that the basis of the contract that was made with the Foundry Company by Mr. Lee, was that the Foundry Company were to have a fair price for wheels, castings and work furnished by them, and that the Road was to have the preference and priority in regard to services, and to have the advantages that would accrue to them by reason of the proximity of the establishment, of their shipments, that is the Road would have the freight business of the foundry. That was the general idea and the theory upon which the contract was first proposed to me by Mr. Lee. The proposi-

tion originally came from him, as I have stated before. Of course to carry out this proposition, and comply with the obligations required by the contract, a very considerable outlay of capital was necessary, not only in the buildings, but in the machinery, fixtures, patterns and a great variety of other things that were required to be specially provided for the work of the Road. And here, I may as well state, that it was not only very advantageous to the Road, but it was specially onerous to the Foundry Co., by reason of this fact, this Railroad had a greater variety of machinery, locomotives, cars, &c., than perhaps any other New England Road. Their engines were purchased at a great variety of places, Tannton, South Boston, Manchester, Philadelphia, Schenectady and other places—all of these engines being, of course, of different pattern and construction, and necessitating the keeping of a large stock of different patterns by the Foundry Company for their repair. It was the same with their cars and equipment generally, which until they commenced to build them here, they had constructed at different shops in the country of which each had its peculiar pattern and mode of construction, so that you will see, it was necessary for the foundry to keep on hand a large stock of different patterns for the purpose of repairs. To a considerable extent the road furnished its own patterns, but often times the foundry had to alter them, and a great variety of tools and material had to be kept on hand which was consequently an extra expense to the Foundry Co. The railroad always had and always claimed to have, and very properly too, a preference in the time of supplying their work, and frequently the foundry had to run their shops all night, especially in the winter when break downs occurred upon the road and castings for such occasions as these were always wanted in great haste, and we always turned them out as promptly as possible, and frequently at an extra expense to us. I am confident, from my own knowledge and experience in the foundry business, as well as my familiarity with the work which this road has had, that it has always had its full equivalent in value, in the work done, to the money which has been paid for it.

The advantage to the road from freights carried to and from the foundry was also very large, their business was growing and continuous, their incoming freights were heavy, and their outgoing freights were considerable, although not, of course, as large as their incoming freight, because the road consumed the larger portion of their material. I know that during the whole period when I was especially conversant with it, that great pains were taken by Mr. Perkins, who was then the master mechanic, and who was here longer than any one in this period now under review, special pains were taken by him to ascertain the prices that were paid at other foundries and by other roads and the question of prices both of wheels and castings was a matter of frequent consultation and adjustment, and I supposed then and suppose now, that the prices which were fixed upon, and agreed to between him and myself, or the Foundry Company, were not only just and proper, but were entirely satisfactory. The auditing committee went through the vouchers of these payments very carefully from time to time, by reason of the relation of myself with the foundry, and with my brother in the management, they were especially careful in this matter, as the whole history of the entire case

shows. Everything in connection with it tends to show that from the outset the accounts with the Foundry Company have been subject to a very thorough scrutiny and examination, and as far as I know those prices have always met the approval of the auditing committee. I, of course, had an interest to know that the prices paid were fair, on the part of the Foundry Company, but I could not hope or expect that they would be unreasonable as far as the road was concerned. I used frequently myself, to ascertain by correspondence or otherwise, the prices that were being received and paid at other establishments in different parts of the country, and I was always satisfied that the rates paid here were correspondingly low. Since the deposition of Mr. Mosley, of the Troy & Boston Railroad, was presented here of their purchases at Troy, it has seemed to me that perhaps as a manufacturing centre for iron work, combined with the unusual advantages for cheapness of transportation of material, iron, coal, sand, etc., the latter material being obtainable in large quantities at Waterford, which is very near Troy, that it would be very fair to make a comparison of the prices paid there with the prices paid by the Trust to the Foundry Company here. In consideration of the unusual advantages for the manufacture of all kinds of castings, wheels, etc., at Troy, I examined with great care and interest the statement made in the deposition I have just referred to, and after making the allowances in the differences in prices of the old material, and the difference in what it would cost the road to freight their old wheels and old castings from here to Troy, and also the freight on the new wheels and material from Troy here, I find that for the first six or seven years of the period embraced in this examination the rates paid by the Trustees and Managers to the Foundry Co. were actually lower than the prices paid by the T. & B. Railroad. I have made an estimate of the amount of about what the difference would have been had the Managers procured their work and made their purchases at Troy and sent their old material to that place instead of doing the business with the Foundry Company here, and the result of my computation shows, in the aggregate, that purchasing here was greatly in the favor of the C. V. Railroad, compared with what it would have been had they purchased at Troy. Then there is the facilities to the road arising from having the manufactory close at hand, and also the advantage derived by them in hauling the freight of the Foundry Company.

I find that in 1862, for instance, the T. & B. R. R., for 33-inch wheels paid \$15 00 and received $1\frac{1}{2}$ c per lb. for their old wheels. This Company paid \$16 00 for their wheels that same year and received $1\frac{1}{2}$ c per lb. for old wheels. That difference of $\frac{1}{4}$ cent on the old wheels, which they received here, more than the T. & B. R. R. received, was $1\frac{1}{4}$; add to that the freight on the old wheels from here to Troy, and the freight on the new wheels from Troy here, on the supposition that the supplies were purchased, and the old material disposed of at Troy, and computing that at the low average for these times of only \$4 00 per ton—a dollar would be the cost as against each wheel—that would make \$2 25, which would make the Troy wheel cost \$17 25, aside from the expense of freighting the new wheel here; whereas, in having their

wheels here, they get them delivered at the door of their shop at \$16 00 each.

In the year 1863 they received the same rate for their old wheels, and this road received the same price as the year before, namely, $1\frac{1}{2}$ c there and $1\frac{1}{2}$ c here. The T. & B. R. R. paid \$18 50 for their wheels; this road paid \$17 50, which would make a difference to this road of \$3 25 in favor of the price paid to this Foundry Company, as against the Troy price, without adding transportation of the new wheels here.

In 1864 the T. & B. paid \$22 00 for 33-inch wheels; this road paid \$17 50 for their wheels, which made a difference in favor of this road of \$5 75 on each wheel, independent of the cost of getting it here.

In 1865 the T. & B. R. R. paid \$30 00 for 33-inch wheels and received $1\frac{1}{2}$ c per pound for their old wheels. This road paid \$32 50 for new wheels and received 3c per lb. for their old wheels, making a difference of \$6 00 in favor of the price paid to this Foundry Company as against the Troy price.

In 1866 the T. & B. R. R. paid \$24 00 for new wheels and received $1\frac{1}{2}$ c for their old wheels. This road received 2c per lb. for old wheels and paid \$26 00 for their new wheels, making a difference of $\$1\frac{1}{2}$ in favor of this Foundry.

In 1867 the T. & B. R. R. paid \$24 00 for their new wheels, and received $1\frac{1}{2}$ c per lb. for their old wheels. This road paid \$26 00 for new and received 2c for old wheels, which makes a difference of \$1 50 per wheel in favor of the price of this Foundry.

In 1868 the T. & B. R. R. paid \$23 00 for their wheels, and received $1\frac{1}{2}$ c per lb. for old wheels. This road paid \$24 60 for new wheels and received $1\frac{1}{2}$ c per lb. for old wheels. But that year was commenced under a new arrangement with Mr. Perkins, by which we were to use new iron—the Salisbury iron—and by agreement at that time between the Foundry Company and Mr. Perkins, the difference on wheels made of that iron was to be \$2 50 more than the price of wheels made of other iron.

Q. (By Judge Poland). Is there any difference in the price of that iron? A. Yes, sir, the Salisbury iron is a very high-priced metal. It is a gun metal iron, is of very superior quality, and is used largely by the Government in gun work and other purposes where a very good quality of iron is essential. It is made from what is called lean ores, and is made of charcoal, consequently the price is high.

In 1868 the T. & B. R. R. paid \$23 00 for their wheels and received $1\frac{1}{2}$ c for old wheels. This road paid \$24 60 for their wheels and received $1\frac{1}{2}$ c for their old wheels. Computing this in the same way as the others, and allowing for the extra \$2 50, for the wheels being made of Salisbury iron, and the difference is \$4 40 per wheel in favor of the price of this Foundry.

In 1869 I do not find that the Troy & Boston R. R. report the price they paid for new wheels, but this road paid \$24 60 for wheels and received the same price for old wheels as the previous year.

In 1870, also, I do not find that the T. & B. R. R. report the price they paid for wheels. The Foundry here received \$24 60 for new wheels here.

In 1871 the T. & B. R.R. paid \$20.00 for new wheels and received 1½c. for old wheels. This Road paid \$24.60 for new wheels, made of the Salisbury iron, and received 1½c. per lb. for old material, making a difference of \$1.40, in favor of this Road.

In 1872 the T. & B. R.R. paid \$17.00 for new wheels, and that is the year referred to by Mr. Moseley, when the price was unusually low in consequence of the great competition at Troy; however that may be that is the price as reported, \$17.00; they received 1½c. per lb. for old wheels. This Road continued to pay \$24.60 for new wheels of new iron, and received 1½c. for old wheels. Apply the same rule for this year and there appears to be a difference of \$1.60 in favor of the Troy wheel; in this instance alone, the price of their wheel being the more favorable. But all these calculations are made up without adding anything for the cost of hauling the wheels from Troy to St. Albans, had the supplies been purchased at Troy. That difference applied roughly, for I have not had time to compute it accurately, still it is nearly correct, but applied to the entire number of wheels furnished from 1861 to 1873, would amount to a saving of \$59,792.20, to this Trust, by purchasing their wheels at this foundry, as against getting them from Troy, transporting them here, and hauling the old material to Troy from here. It is also independent of the loss and inconvenience of exchange of wheels under the guarantee, because the guarantee is substantially the same in both cases. Indeed, in this respect, there is very little difference between manufacturers of wheels and the different Roads in the country, they are essentially the same, as regards the guarantee of their work. In addition also to the amount I have just mentioned, is the business this Road has received in hauling freight for the Foundry Co., within that period, and the profit arising therefrom, whatever it is, and on their local rates it is supposed to be fair.

Q. (By Mr. Fifield.) You paid their local rates, did you? A. Yes, sir, the uniform regular rate, with the exception of perhaps some special thing or other, and then they always paid what the public did. I think Mr. Newton and Mr. Edward A. Smith stated that the amount of freight bills paid to the Trust during this period in question was \$135,933 43, that is my impression. The road has also had the saving of the interest upon the stock which otherwise the road would have had to carry through the winter season. They would have been compelled to carry a very considerable stock of wheels and castings to meet the great variety of patterns of their cars and engines or else suffer from the loss and detention of not getting them in season and thus losing the use of their power. These are incidental advantages which it is difficult to estimate in dollars and cents, and were considered at the outset when the contract was made, and which has always been conceded, and is conceded by the present board of directors of this road as a valuable thing for the road independent of having such a manufacturing establishment upon the line of its road. These are the general facts of the matter and I assumed Troy in making the comparison I have made, because as I stated in the outset, it seemed to me to combine unusual advantages for cheapness of manufacture. There are two, perhaps three, manufacturing at Troy—it is a great iron center—the rates of wages are comparatively

lower by reason of competition, in fact it has great advantages over any other accessible point on this road at any rate for cheapness of manufacture. In view of those facts it certainly seemed to me not unfair to the prices paid and received there, as fail to make this estimate from. I think the testimony in the report of the Legislative Committee and I think Mr. Foss and any one who has been conversant with the matter, would assure you that the quality of the work, with the exception of the short period of time which Mr. Perkins claims that they were poor and gave out, has been exceptionally good; and from my own knowledge and investigation I know this, that there never has been a time in the history of this road when the cost of repairs was so much reduced by reason of the good quality of the work and the wheels, as has been since 1868; and I may say here perhaps that in reference to the manufacture of the wheels of Salisbury Iron, I urged it years before they adopted it; I insisted upon it, that it was the truest economy and best policy for this road or any road; I said they could not afford to use for their equipment anything but the very best quality of material. I know that facts have demonstrated the philosophy of that view; and I know too that the work furnished by the Foundry Co. (whatever may be said of the price) has been superior in all respects—not only so far as the quality of the material is concerned in the main, but also of the workmanship, which I am confident has been of the best. I had the curiosity to look up and see what the percentage of return wheels has been during this period of time in question—including the year 1865 or '66, when by reason of changes that Mr. Perkins himself desired made and advised, but which I was averse to in my own judgment, yet which nevertheless was adopted by the Foundry Co. and in consequence of which the wheels did not wear the usual time—including that period, when an unusual number of wheels were returned, the average of return wheels has been only about seven per cent., but deducting that single year, both of new and return wheels the average of return wheels has only been about 4½ per cent. I doubt whether there is a wheel factory in the United States that can show a better record than that, at least I never heard of one, and I used to be very familiar with the experiences of wheel makers. I have given a great deal of time to the subject and I know in those days what their experience was, and I should not hesitate to place that record against the record of any manufacturer in the United States, and for the quality of the work. There was also in this period of time covered by this examination, there was a large number of cars as you are aware built for the Vt. Iron & Car Co., and the wheels and castings used in the construction of these cars were purchased of this Foundry and were charged in the cost of constructing those cars at precisely the same prices at which they were paid for. They amount in the aggregate to a considerable sum, \$204,573 15.

Q. What did you say about the warranty of these wheels? A. The warranty is for the year. It is substantially the same upon all Roads. We have not been particular here in regard to the time guaranteed—if a wheel has broken here, it has been the custom to replace it at any time unless it was an unreasonable time.

Q. You say the warranty is for one year, how is it about these wheels under the Pullman cars? A. Well, the Pullman car, as you are all probably aware, is a very heavy car. The brakemen, and trainmen, not only upon our own Road, but on other Roads on which Pullman cars were run, always applied the brakes first and hardest on this car, because it was desirous to stop that one as soon as possible; if they stopped the wheels of that car, and made them slide, it was a check to the train and would stop it sooner than a lighter car. I do not think any wheel manufacturer could give a guarantee upon wheels for Pullman cars and save himself.

Q. What is it about this "royalty," will you explain that? A. I don't know what it is. I never heard of a royalty.

Q. Just tell the Masters what that payment originates in? A. At the time of the lease of the foundry to Stannard & Smith, as I think I stated when on the stand before, I reserved as a consideration and compensation for certain things—for instance, the capital I had furnished, endorsements I had made, &c., I received a specific price upon each wheel and upon castings furnished to the Railroad Co. I had nothing to do with the price paid by the Railroad, or the price the Railroad received, it was simply a convenient way of reaching a certain point. I did not intend to be a partner at all in their business or to be made liable in any way, or to have any participation in the profits of their own joint business. They paid me specifically for certain considerations, this amount per wheel on whatever they furnished, whether it was more or less. If they did not furnish a wheel it went for nothing.

Q. And if they furnished the wheel for a less price you still got the same amount? A. Yes, sir; the price I got was not affected in any way by the price paid for the wheels by the Railroad. It was a matter of confidence and agreement between myself and the gentlemen connected with the Foundry.

Q. Something I think was said about this matter having received special consideration by Mr. Taylor, and that he took great pains to examine into the matter, please explain about that? A. Mr. Taylor made a thorough examination into it, he obtained prices from other manufacturers and Roads. He sat down with Mr. Perkins in the first instance, and Mr. Drury, who was one of the committee, and made a thorough and careful investigation. He had a conference with the Foundry Co. and agreed upon a price. The result of that investigation by Mr. Taylor was a change in the prices. But examinations had been made before that of prices paid to this Foundry Co., and the prices paid by other Roads.

Q. How often were such examinations of the prices made? A. As often as once a year, sometimes oftener. I remember on one occasion, when the prices of material and labor had gone up, Mr. Edward Smith, I think, particularly called my attention to it, and we thought we were not getting a fair rate. The matter was brought before the managers. I remember talking to my brother and Mr. Clark, they thought the high prices would only be temporary, and they did not want to increase the price. The statement I have made shows that during that period, was the time of the greatest difference between the rates received by this Foundry Co. and the rates paid by the T. & B. R.R.

Q. This percentage on the wheels, which they call a royalty, then was a private matter between yourself and Ed. Smith & Stannard, simply and purely? A. Yes, sir.

Q. Did the Managers know of such a contract? A. I never told them.

Q. Mr. Clark testified that he knew nothing about it. Did the Governor, your brother, know of it? A. He saw the contract and signed it, but I don't know whether he read it. I think he knew of it.

Q. Did he ever participate in fixing the prices of those wheels? A. No, sir, he always declined to. He never had an opportunity to.

Q. Now how is it about castings? A. I have not had time to go through and make the same comparison that I have with the wheels. I took the wheels first, being the largest item in the aggregate. This table that I have here purports to give, and I think it is about correct, the prices paid by the T. & B. Railroad for several years, and the prices paid by the Trustees. In some years there is no difference. In 1862 they paid 2½c, including chairs and road castings. This road paid 3½c, without that, they did not use cast iron chairs, nor yet the cast iron frog. The difference in the cost of making the general working machinery for locomotive and car use, and the road work is very great; to illustrate that I would say that just prior to 1860 I made a large contract for cast iron chairs at 1½c, and made a larger percentage than I ever made on any railroad work; it was a coarse, cheap iron that was used of course. A moulder could make two tons per day with perfect ease, whereas in machinery work he might not work one hundred or five hundred lbs. in a day, so that the difference in price would be very great where common castings are included.

In 1863 they paid 3½c for castings. This road paid 4c. Here if you apply the question of freight this road of course paid less.

In 1864 prices were the same, 4c; and the same price was received for old castings—scraps we should call it in distinction to old wheels.

In 1865 the T. & B. Railroad paid 5c; this road paid 6c. They received 1½c for old scrap; this road 2½c per lb.

In 1867 the T. & B. Railroad paid 4c; this road 5½c per lb.

In 1868 the T. & B. Railroad paid 4c; this road 5c per lb., and so it runs on afterwards, they paying 4c, this road 5c and 6c. The locomotive castings were made of a higher priced iron, and they were made with charcoal facings that is, they were cast perfectly smooth, and in addition were made in what we call dust facing and ground after they came out, so that they were not only smooth but ready to put on the engine or cars, as the case may be. It was unusual to do that, and was never done before. If they were made with ordinary facings, in order to get the sand off it had to be chipped off, or taken off clean, but by being made in charcoal facing, it leaves the facing of the iron smooth and clean.

Cross-examined by Mr. DAVENPORT.

Q. Will you furnish that schedule, from which you have read, as an exhibit, that it may be filed here? A. I will give you a copy.

Q. Have you instituted any comparison between the prices paid by this Trust and those paid by any other corporation except the T. & B. R. R.? A. Not in this way; no sir.

Q. Now, the correctness of your statement here depends entirely upon whether you are right in saying that the T. & B. R. R. only got $1\frac{1}{2}c$ and $1\frac{1}{2}c$ for its old car wheels? A. If I have made a mistake in the prices stated then my statement should be corrected to that extent. I had this paper made out from the depositions and I suppose it is made out correctly. It is stated here in this statement that in 1865 they were getting $1\frac{1}{2}c$ for their old wheels and $1\frac{1}{2}c$ for old scrap, and the same in 1866.

Q. Do you know of any establishment which manufactures car wheels that does not make them out of charcoal iron? A. Well, I did in that period, a good many. I am not so familiar with it now.

Q. Will you tell me what establishment in Troy, or New Jersey, or New England is manufacturing car wheels from anthracite iron? A. I don't know that any of them are.

Q. You don't know that? A. No, sir.

Q. Do not all the manufacturers in Troy, New York City, New Jersey and New England use the same kind of iron which you use? A. They did not in this instance, and I do not think they do now. Mr. Gill, of Worcester, does not, and the Troy foundries did not in those days.

Q. What kind of iron do you understand the Troy foundries used? A. They used a great variety of iron made in Huntsville.

Q. Did they use anthracite iron? A. I don't know that they did; but there is a great difference between that and charcoal iron.

Q. Well, this Salisbury iron, which you say is of such good quality, that is made by the great iron manufacturer, W. H. Barnum, is it not? A. I think he makes some iron.

Q. Well, does not he make the Salisbury iron? A. I don't know whether he does or not. The iron we used was made by Hunt, Lyman & Co., I think.

Q. Where is their establishment? A. I cannot recollect at this moment; I think at Huntsville.

Q. Is not that in the town of Canaan? A. I don't know, sir.

Q. Is it not for the interest of any railroad to buy the very best quality possible of car wheels? A. I think it is, sir.

Q. And it is for the interest of car wheel manufacturers to use the best quality of iron in making the wheels, is it not? A. Not always, sir, in my opinion.

Q. Do you wish these Masters to understand you as testifying that this Trust has had any better quality of car wheels than the other leading lines of road in New England? A. I do not want to express an opinion about that; I say they have had the best wheel that could be made.

Q. Well, you don't know any reason why other shippers could not make as good wheel as this? A. No, sir.

Q. Well, taking into consideration the necessity of having, particularly under passenger cars, the best quality of material, have you any

doubt but that a Road would get the best they could? A. Well, I have no means of forming an opinion about that. Each Road has its own idea upon that subject.

Q. Has this establishment furnished car wheels to any extent to any other parties? A. I don't think they have extensively, they have some, I think.

Q. Their wheels have not got such eminence in the market than other Roads purchase them rather than purchase of other manufacturers?

A. I am not aware that they ever sought for eminence in that direction.

Q. Do you desire these Masters to understand that in your judgment the C. Vt. R.R. Trust has had a better quality of castings than other Railroads in New England and New York? A. Yes, sir, I think they have. For their locomotive castings they have had better work than other Roads have.

Q. Is it the interest of a Railroad to buy the best kind of castings for its locomotives, or is it not? A. I should say it is to their interest.

Q. Has this St. Albans Foundry Co. attained any such pre-eminence in that direction that its castings are sought for by other Roads in preference to the castings of other establishments? A. I don't know that it has.

Q. Do they sell castings to other Roads? A. They have sold some, I think.

Q. Well, do you mean that cars have been repaired here, belonging to other Roads? A. I cannot tell. I think they stated in their testimony that they had sold castings to other Roads, but I don't know about it.

Q. You have no knowledge upon that subject? A. No, sir.

Q. Where has the Central Vt. R.R., as it is now called, sold its car wheels? A. Here, at this foundry, a very large portion of them, but I think they have sold them elsewhere.

Q. Has not the bulk of their car wheels been freighted down to Worcester and there exchanged for iron rails? A. I think they have sold a good many of old wheels at Worcester; they have exchanged some at Nashua for axles.

Q. Will you state, if you know, what price this Trust has obtained for the car wheels sold at Worcester and Nashua during the years from 1868 to 1873 (inclusive)? A. I cannot tell from my own knowledge, sir.

Q. Well, you have not investigated that matter, have you? A. Not the matter to which you refer.

Q. When you state that the Trust has received the price named for car wheels, do you mean to say that that price has been received here? A. Yes, sir.

Q. Have not they taken these wheels, to your knowledge, as far as Worcester and Nashua, at the price you say they have received here? A. I don't know what price they actually did receive, but I don't think they received as much because they had to freight them.

Q. (By Judge Poland.) You referred to prices paid by the Foundry Co., did you not? A. Yes, sir.

Q. Will you furnish to the Masters a statement of what the Trust has received for its car wheels which have been sent to Nashua and Worcester? A. I will endeavor to find out from the shop.

Q. Do you know any reason why this Trust should pay a higher price for car wheels and castings than the Cheshire Road should pay? A. I don't know. I heard you read the testimony, but I don't know of any reason.

Q. Well, take that for an illustration; what do you think of this road, comparing its situation or otherwise, being under the necessity of paying a larger price for castings and car wheels than the Cheshire Road have to pay? A. I think they are under the necessity, if they consult their own interest, of securing the best work they can procure of wheels and castings.

Q. You do not answer my question? A. I cannot.

Q. You named Troy as a favorable place? A. Yes, sir.

Q. I call your attention to Keene, the head quarters of the Cheshire Railroad, now in your judgment ought this Trust to pay a larger price for car wheels and castings of the same quality than the Cheshire Road should pay? A. There would be difference, of course, it would cost this road more to freight their wheels than it would them. I don't know where they purchased. There are a variety of considerations of which I know nothing about.

Q. Well, to buy anywhere, you have the advantage of water transportation from New York to Burlington have you not? A. Certainly.

Q. The Cheshire Road would have no advantage of water communication, would they? A. I say to you I don't know from what point they purchase.

Q. Well, take a Vermont road; the Passumpsic Railroad, for instance. Can you tell any reason why the Central Vermont should pay a larger price for car wheels and castings than the Passumpsic Railroad? A. Not of the same kind.

Q. The charges in the way of freight would be more favorable over the Trust roads than over the Passumpsic would they not? A. That depends upon where they purchase.

Q. Well, you know the only sources from which the Passumpsic Railroad can purchase don't you? A. I don't know, sir.

Q. Don't you know that there is no manufactory of iron wheels on the line of the Passumpsic Railroad? A. I don't.

Q. Is there any in New Hampshire to your knowledge? A. Yes, sir; one at Concord or Laconia.

Q. (By Judge Poland.) Is not there one at Manchester? A. No, sir; that is a locomotive manufacture, not car wheels.

Q. (By Mr. Fifield.) Do you think the Passumpsic Road ever had car wheels made of Salisbury iron? A. I don't know whether they had or not.

Q. (By the same.) Do you know as to the Ogdensburg Road, or Rutland Road before they were leased? A. I don't know, but I don't think either of them ever did.

Q. (By Mr. Willard.) I notice you only brought your statement down to 1872, have you got the result for 1873. I allude to the comparison in prices between this road and the T. & B. How do you make it for '73? A. I thought I had given it to you. The T. & B. R. R. paid \$19 00 and received 1½c for old wheels. This road paid \$24 60 and received 1½c for old wheels. The new wheels being made of the new iron, and working on the basis, as I explained, the difference would be in favor of the St. Albans wheel.

Q. Have you any knowledge whether the T. & B. R. R. used any old iron in the manufacture of wheels? A. No, sir, I have no knowledge about it at all.

Q. How many old wheels did the Trust sell to the Foundry Co. during that time? A. I have not figured it, quite a large amount, up to 1868, of course, they had all the old wheels, until they used the new wheel, then they had portion.

Q. Have you stated the amount which you received by reason of this contract of yours with the Foundry Co. between June, 1872, and July, 1873? A. I don't know whether it was embraced in statement furnished the Investigating Committee.

Q. I wish you would have a statement made covering the 13 months, of car wheels and castings furnished to the Trust.

Q. I think you stated that the V. I. & C. Co. had their wheels of the Foundry Co.? A. I stated that the road built those cars and used the wheels furnished to them by the Foundry Co., charging the same price as they paid for them.

Q. Did you receive your royalty or percentage upon those wheels? A. I did. The Trust bought the wheels of the Foundry Co., and charged them to the Car Co., in building the cars, at the same price they paid for them. I received the same amount on those wheels as upon any other wheels furnished to the Trust.

Q. (By Mr. Walker.) Supposing that ordinary car wheels cost \$24 60 what would be the additional expense of the broad tread or "compromise" wheel? A. I don't remember at this moment what the difference in the weight is—it would be the difference in the weight. As you mentioned that subject I would say that quite a number of the wheels which have been furnished have been broad tread wheels, which cost us more than the ordinary tread wheels.

Q. (By Mr. Dennison.) Is there any other additional expense except the weight of the wheel? A. No, sir.

Q. Can you tell approximately what the difference in weight would be? A. No, sir, I don't recollect.

Q. In your statement of prices of wheels and castings which you have just testified from, I notice that in 1867, for instance, you paid the Trust 2c per lb for old wheels; what did you allow that year for old scrap? A. 1½c per lb.

Q. Then there is a material difference between the price of old scrap and old wheels? A. Yes, sir.

Q. Now in regard to this item which Mr. Fifield called your attention to, this balance of \$29,416 37 found by the former Masters, I understand that to be the balance which that Board of Masters found between

the earnings or receipts and disbursements. Can you point out in any statement furnished here anything to show that the Receivers have paid to the Trust, or made up to the Trust that sum in any way? A. I did not understand they were to pay it, it simply showed the balance on hand at that time, which has been carried through continuously. If the Trust and the accounts had been closed at that time, some disposition would have to be made of the amount; but as it is not so, the amount has been carried right on.

Q. Then, taking up the accounts at that time, that item should stand as a charge to the Trustees to be accounted for? A. I understand it is merged in the general condition of the accounts which are now being examined.

Q. How is that amount made up? A. I cannot say how much is cash. There was probably some of it actual cash on hand at that time, but what proportion of it I don't know.

Q. The balance purports to represent money, does it not? A. I don't so understand it, sir. There is another item in the same report of cash in the hands of the Ticket Agent and Master of Transportation.

Q. Does that item appear in any of the statements furnished of earnings since that time? A. I understand it all appears in the general statement. It must have been involved in the general operations of the road since that time.

Q. Is there any reason in making up the accounts at this time, why we should not include that amount? A. It is already included in the present accounts by being involved with them. I presume that the Trustees and Managers turned over the amount to the present Receivers and Managers, so that it would be included already in the present accounts.

Q. (By Mr. Dennison). In what report is this balance of which you are speaking contained? A. It is the balance found by the former Masters in July, 1861, sir.

Q. I call your attention to the statements of the Trustees' account, made out by Messrs. Andrews, Pinkerton and Drury, from July 1st, 1861, to December, 1864, charging them with the receipts from earnings of the road during that period, and also charging them with other items of debt, &c., and ask you whether or not, in your opinion, that account is rightly stated, and whether the amounts represented there should not be charged against the Receivers? A. If I understand it rightly, that purports to be a statement of that committee, commencing with the balance you refer to, which the Masters found in 1861, and adding to it other items of earnings down to 1864, crediting them with the disbursements to that time, and the balance of the account is shown on this statement.

Q. The question was whether or not it is correctly stated? A. I presume it is, sir.

Q. And whether it should not be rightly charged against the Receivers in this present accounting? A. Well, I understand it has gone into and is embraced in the present accounts.

Q. (By Mr. Dennison). Do any of your statements filed here cover the time from '61? A. No, sir.

Q. (By Judge Poland). Is there anything upon any of your books which would indicate that these accounts have ever been settled by the Masters? A. No, sir; the books have continued right along without any break.

Q. Then the Report of those Masters merely show the state of your accounts at that time? A. I so understand it, sir.

Q. Was there any new start made upon the books at that time? A. No, sir; they went on as before, without a break, any thing on hand then in money or property went into the accounts, and are represented in the present accounts.

Q. (By Mr. Fifield.) Do you understand that statement in the report of cash in the hands of Barret, the cashier, of \$1,000, to be actually cash in his hands at that time? A. No, sir.

Q. (By the same.) Did you ever succeed in collecting that amount of money? A. Never a dollar, sir.

Judge Poland then read a letter from Horace Fairbank, purporting to show the prices paid by the Portland and Ogdensburg Road for castings, which were as follows:—

In 1871–72, 5c. and 6c. per lb.

In 1873, 6c. per lb.

In 1874, 5c. per lb.

The affidavit of Judge Smalley in reference to the "Smaller voucher" of \$3,000, hereinbefore mentioned, was then read by Mr. Fifield.

The following documents were then put in by Mr. Walker and marked as under papers concerning the Bolton lands, marked "Exhibit 89."

Contract with Webster Wagner, and the assignment of it to W. C. Smith, marked "Exhibit 90."

Cost of Directors car, marked "Exhibit 91."

Agreement between Asa B. Foster and Messrs. Clark & Smith, dated Dec. 31st, 1862, marked "Exhibit 92."

Mr. Alfred Coote, re-called by MR. FIFIELD.

Q. I call your attention to Exhibit No. 82—statement of the account of Gov. Smith with the Trustees and Managers, is that a correct statement from the books? A. Yes, sir.

Q. I show you Exhibit 82^a—additional statement of account of Gov. Smith with the Managers, is that a detailed account of one of the items of the account you first testified to, No. 82? A. Yes, sir.

Q. I show you statement 82^b; state what that is if you please? A. This is a statement of the payments made to Gov. Smith on account of his services and travelling expenses from January, 1860.

Q. Is that a correct statement from the books? A. Yes, sir.

Q. Was that item of \$45,564 44 rent of the M. & Vt. J. Road, was that charged to that road by the Trust and credited to Gov. Smith in this account? A. Yes, sir. It was transferred from Gov. Smith's account to the M. & Vt. J. books.

Q. The Trust has kept the account of the M. & Vt. J. Road have they not? A. Yes, sir.

Q. And they owe them for that rent now? A. Yes, sir; if you refer to that particular item. That was paid in cash, but there is a balance.

Q. How comes it that this amount was carried into this account at all? A. It was deemed best to have only one account and save confusion in the books; that is the reason. The transfer was made from the M. & Vt. J. books to the C. V. R. R. books.

Q. Who did that transfer? A. I think it was done by Mr. Wilbur's direction at the time. I am not sure.

Q. Prior to that time they kept their account on the M. & Vt. J. book? A. Yes, sir.

Q. Had it been paid always? A. Yes, sir.

Q. Then the M. & Vt. J. paid the Governor? A. Yes, sir.

Cross-examined by Mr. WALKER.

Q. Is there any account on the books, as represented by this exhibit 82, of which this is a copy? A. Is that the account current, sir?

Q. Yes, it is? A. Then it is a transcript of the account as it appears on the V. C. R. R. ledger.

Q. I notice this begins in June, 1872; was there any account with Gov. Smith on the ledger before that time? A. No, sir. I believe not. There was an account with him upon the M. & Vt. J. books, but none on the Central books.

Q. You mean to say that this paper is a copy of the ledger account as it stands to-day? A. As it stood on the 1st of July, 1873.

Q. Well, as it now exists on that ledger? A. Yes, sir.

Q. Please get that ledger? (Book produced.)

Q. I see an item here on this book, Mr. Coote, of monies carried to the credit of Gov. Smith from the Sullivan Road, balances of account to December, 1872, \$69,746.18; did that close his account to that date? A. Yes, sir; with the Sullivan books.

Q. Where do the earnings of the road for the next seven months, to the close of this Trust, appear? A. They appear to the credit of of the Governor on the Sullivan books.

Q. And are not brought on to this statement? A. No, sir; they have not been transferred; the balance to July, 1873, was left on the Sullivan books.

Q. Has it ever been settled? A. No, sir.

Q. Whatever there is of it then, it represents so much more money that the Governor claims the Trust owes him? A. Yes, sir.

Q. Does that amount appear in any statement that has been furnished as an amount owing by the Sullivan Road? A. I do not think there has been any statement made of it at all, sir; it is not included in the balance sheet. You have not got a trial balance of the Sullivan Road.

[Gov. Smith did not intend to have the account made out in this way and the statement was withdrawn to be revised.]

Q. Mr. Coote, have you examined the books in reference to the question I asked you this morning as to whether any remittances were received from the S., & S. C. Road by the Trust? A.

Court here adjourned until next morning, September 29th.

WEDNESDAY, SEPTEMBER 29TH—MORNING SESSION.

Court assembled at 9 a.m.

Mr. Willard puts in statement purporting to be a transcript of Court Vt. & C. R.R., marked "Exhibit 93."

The following motions were then filed by Mr. Davenport.

Motion No. 1 was as follows :—

"Counsel for Austin Burchard and Rush C. Hawkins, first mortgage holders, after repeated notices to produce the same, move the Masters here that an order be made by them upon the Receivers, requiring them to produce, for the inspection of the Masters, such books or papers will show the number of free passes issued, and the names of the persons to whom they were issued by said Receivers from July 1, 1861, to July 1, 1873.

St. ALBANS, Sept. 19, 1875.

CHAS. N. DAVENPORT,
Of Counsel."

The ruling of the Masters upon this motion was, that the Receivers produce the books or papers in question if in their power to do so.

Mr. Davenport's second motion was as follows :—

"Counsel for Austin Burchard and Rush C. Hawkins, move the Masters for an order upon John Gregory Smith, requiring him to answer and disclose to whom he paid and disbursed the various sums from the

"Secret Service Fund," about which he has already been inquired of, and concerning which he declined to answer.

ST. ALBANS, Sept. 29, 1875.

CHAS. N. DAVENPORT,
Of Counsel."

Judge Poland then proceeded to state to the Masters a few facts in connection with the Secret Service Fund, but was interrupted by Mr. Davenport, who suggested that if Judge Poland was testifying he had better be sworn; thereupon Judge Poland was duly sworn and proceeded to state, as follows:—"Mr. Fifield and myself had a conference with Gov. Smith in relation to that matter, and to us he gave the details, as to why this money was paid, and explaining to us that these were matters of confidence; that some persons had been employed in cases where parties claimed to have been injured; others were employed to look after persons who were concerned in the management of the Trust, and he was in honor bound to all those persons not to disclose their names. Upon the disclosure and statement of Gov. Smith to Mr. Fifield and myself we both advised him not to disclose it, we considered that his obligation to those persons ought not to be violated.

Examined by MR. DAVENPORT.

Q. Will you inform the Masters who the persons were to whom John Gregory Smith told you he had paid the money? A. No, sir.

Q. Will you inform the Masters where those persons reside? A. I do not think I can, all of them.

Q. Will you give the residences of some of them? A. No, sir.

Q. Will you name the State in which they live? A. Well, most of them live in Vermont.

Q. What is their occupation? A. Some of them were doctors.

Q. How many of them were doctors? A. My recollection that Gov. Smith named two or three.

Q. How many persons were there in the whole to whom he disclosed to you that he paid this money? A. I cannot state.

Q. About how many? A. Well, a considerable number.

Q. When you say a considerable number, do you mean twenty? A. I don't think he named so many as twenty. I don't think he gave the names of every one of the persons.

Q. Well now what were the occupations of the other persons to whom this money was paid, beside doctors? A. That is all I can state.

Q. Were you informed by him that this money was disbursed by him directly to these persons? A. That is the idea I received.

Q. Was anything said in that conversation about its being disbursed through Jo D. Hatch or any part of it? A. No. I do not think Mr. Hatch's name was mentioned at all in connection with it.

Q. Now, Judge Poland, will you state the reason why you gave to Mr. Smith the advice which you did? A. Well, Governor Smith's representation of these cases was that some of the persons connected with them were neighbors living near, who claimed to have received great personal injuries, it was believed that these claims were false, and it was necessary to keep a watchful eye upon the claimants for a long time; that was one class of cases.

Q. Do you think there is anything dishonorable in a man who has used these means to accomplish a desired end, in telling to whom he disposed of the money he used to accomplish it? A. It is not upon the ground that there was anything dishonorable in it, that he would not be willing to tell, but he could not get the persons to perform that service except under solemn pledge that it never should be told.

Q. Then that is the ground which you put it upon? A. Yes, sir.

Q. Then it was upon the fear that hereafter, if Gov. Smith disclosed under the order of the court the names of the parties that he would not be able to secure the services on any future occasion, was that one of the considerations that operated upon you in inducing you to give the advice you did? A. No, sir. I gave advice upon the ground that he had induced those persons to do this service upon the distinct understanding that it never should be known.

Q. (By Mr. Walker.) Did Gov. Smith give you a statement showing the amount of payments in the aggregate sum in question? A. He told us how much he paid to some persons.

Q. Did he account for the entire sum in question in the manner in which you have described—the 14 thousand odd dollars? A. As I understand it the whole amount of money that he did not disclose was used for this purpose though not all for the observation and watching of persons injured. Of course, in this Company's service a very large number of persons have to be employed and the modern experience is that persons standing in this relation are not always faithful. Very often persons are suspected of unfaithfulness who are not guilty, and if it was only an opinion it would be desirable to ascertain for certain that such was the case; some part of this amount was used in cases like that.

Q. Did Gov. Smith give you a statement showing the amount expended to be over \$15,000? A. I don't remember now. I have not now a definite idea of the specific amount he stated.

The ruling of the Masters upon Mr. Davenport's second motion was, that in view of the evidence given upon the subject they declined to make the order.

To which decision overruling the said motion, counsel for the bondholders desire to except.

Mr. Fifield—Mr. Chairman I want to ask Gov. Smith to give a somewhat detailed account of his connection with the Trust and its history, in order that you may see the motives that he has been actuated by, and the circumstances surrounding it. Now, Gov. Smith, will you go on and state to the Masters the history of this concern and your connection with the Trust in your own way, it is a better way than my asking you any questions about it?

In compliance with this request Gov. Smith stated:—Before reaching the point in chronological order, I may, perhaps, be permitted to state that the position taken by the opposing Counsel in this case and the theory upon which the testimony thus far put in by them has proceeded, has taken me somewhat by surprise. Whether they are correct or not it is not for me to say, but it has seemed to me so entirely different from the theory upon which this Trust was created, and upon which we have proceeded to administer it, as to render it necessary for me to give somewhat of a detailed chronological statement of this whole matter, beginning at its commencement, and tracing it along down in order that the Masters may be better able to understand our position with reference to it, and our understanding of the nature and character of the duties that were imposed upon us by our appointment as Receivers—nominally Receivers of this Trust, and I will endeavor to be as brief in the early part of the statement as I can.

I begin with the charter of the Vt. & C. R.R., that was the commencement of this affair, and I merely allude to it to state the obligations which existed under that charter, as I think they may have a bearing in the future administration of the Trust. When that charter was obtained it was the result of the conflict between the V. C. R.R. and the Rutland & Burlington R.R. each, I think, appearing before the Legislature for independent charters, and both these charters terminating at Burlington, and each asking for an independent charter North. The result of these complications was the granting of the Vt. & C. charter, creating a new company, and providing in that charter for the connection with both Roads, that is with the Vt. Central at Essex Junction, and with the R. & B. R.R. at Burlington, the provision of the charter being that the connection should be made within 13 years from its date, or the charter would be declared forfeited and void. There was also a provision in the charter for the construction through to the Canada Line, the town of Highgate: the first original charter provided for the connection with the Ogdensburg R.R. across what was termed the Sandbar, in the town of Colchester, and so it remained until 1847 or '48, I think, when the Vt. & Canada made their application to the Legislature for the right to bridge the Lake at Rouse's Point, which application was severely contested by the Rutland R.R. During that session of the Legislature and pending the discussion of the right to bridge the Lake, a bill was introduced to amend the charter of the Vt. & Canada, by striking out the words "across the Sand Bar." The effect of this amendment was to give the Vt. & Canada the right to connect with a Road in New York, or on the East shore of Lake Champlain. The Legislature denied the right to bridge the Lake or rather refused to pass the bill granting that privilege. Under this amended charter the Road was surveyed and constructed to West

Alburgh, and the right to bridge the Lake was obtained under the general statute regulating the rights of riparian owners.

They had to build it so as not to interfere with the navigation of the lake.

That road was completed under an arrangement with the Vt. Central corporation, who stipulated to pay an annual rental of 8 per cent. upon the cost of the road, and in that way the money was obtained to build the Vt. & Canada R. R., and it being in the interest of the Vt. Central as well as it was supposed to be for the interest of the R. & B. R. R. that this connection should be made with the Ogdensburg R. R., which was being built contemporaneously, they proceeded to build that road so as to make connection at Rouse's Point, the Ogdensburg Road meanwhile changing its location from Plattsburgh to Rouse's Point, and thus the Line was established. This first lease was made in 1849 and the following year an amendment of the lease was made, so as to give the Vt. & Canada a more effective remedy, as it was supposed, in the event of a failure to pay their rent, they could enter upon both roads—the Vt. Central & Vt. & Canada—and recoup their rent out of the earnings of the road, restoring the property back to the possession of the Central Road after they had recouped themselves fully for what arrears of rent there were due.

The Central Vt. R. R. at the same time constructed its road to Burlington from Essex Junction, which was claimed by them to be a substantial compliance with the provisions of the charter to make a connection with the Rutland R. R. at Burlington. That led to a severe controversy with the Rutland R. R. and the Vt. Central, and the Vt. & Canada—the last named acting in harmony with the Vt. Central—took the same position and maintained it for a number of years. The road as originally located ran thro' the village of Burlington after it crossed the Winooski River, and it ran in a very circuitous route,—something like the letter S—crossing all the principal streets running East and West into Burlington, and coming into Burlington on a line parallel with the Rutland R. R., so that that road had no outlet and no connection with the Vt. Central except it followed right back in the same direction—that is, over this circuitous route through the village; they complained that passengers could not run thro' without changing seats, and that altogether it was an unsatisfactory connection with the Rutland Road. The question, however, rested upon the technical compliance of a connection with the Rutland Road. I will leave this matter at that point and take it up again shortly.

This lease was concluded in 1850 or '51, and then it was that the first mortgage of the Vermont Central for \$2,000,000 was executed, and made in terms subordinate to the Vermont & Canada lease in 1852. On the 5th of May the second mortgage of one million and a half of dollars was made upon the Central R. R., and that, also, was made in terms subordinate to the lease of the Vermont & Canada R. R. The Vermont Central Railroad was built under a spirit of high rivalry with the Rutland R. R. and pushed on with great rapidity, and it commenced running when in a very imperfect state of completion. The Vermont Central became embarrassed soon after that, and in 1854 its property was attached,—

engines, cars, etc.,—by its creditors, among whom, and principally were its contractors, and it became evident to the Managers and Directors of that road that unless some course could be adopted the road must stop operation, although at that time there was no default upon the first mortgage; however, under the advice of counsel, the Vermont Central Directors surrendered their road, as a means of protection, to the Trustees of the first mortgage bonds, who at once entered upon possession and assumed to pay all debts and relieve the attachments that were then on the property to a certain extent. That led to a compromise with the creditors, by which a portion of them waived their attachments, and it was thought that it would be safe for the corporation to again resume management, and the Trustees be relieved of it. Application was thereupon made by Gov. Paine—then president—to the Trustees to surrender back the property. This the Trustees were inclined to do, but immediately there followed a remonstrance signed by a very large proportion of the bondholders in Boston, saying that it was unsafe to do it, whilst these debts of the old Central Road were still outstanding; they said it would lead to further complications and they remonstrated. Thereupon the Trustees, in obedience to the wish of the *cestui que* trust, declined to surrender the road, and at that point commenced the litigation which afterwards proved so disastrous to the property itself. A bill in Chancery was brought at once by the Vermont Central against the Trustees to recover possession of the property, and the cordial relations and goodwill which had existed between the Trustees and the then Board of Directors of the Central Road was of course disturbed. That led to other proceedings,—the second mortgage bondholders coming in and claiming that as they were the most remote security that they were entitled to the possession instead of the Trustees of the first mortgage. A great multiplicity of suits followed; the Trustees became exceedingly embarrassed, and found themselves in a very awkward position in consequence of this litigation, and also the bad condition of the road, from the imperfect manner in which it had been constructed, increasing the cost of operating. Up to that time they had paid the interest on the Vermont & Canada R. R., that is the eight per cent. on its then cost, but in consequence of these embarrassments, on the 1st of December, 1854, they were compelled to default in the payment of the Vermont & Canada rents. The Vermont & Canada brought her bill in Chancery, claiming the payment of her rent or her remedy under the lease, to wit: the possession of both the roads; and also prayed for the appointment of a Receiver, who should hold the property until her rents could be obtained, if the court declined to give them their immediate remedy, namely, the possession of the road. Thereupon after a hearing of the case the court appointed the Vermont & Canada herself as Receiver, declining to put her in possession of the roads under the remedy. The court directed that the funds over and above enough to pay the operating expenses should be held subject to the future order of the court.

Thereupon the First Mortgage Bondholders—not the Trustees, but the First Mortgage Bondholders—some of them, appeared in Court and asked for leave to file their answer, contesting the validity of the Lease itself, and the right of the Vt. & Canada Co. to hold a prior claim up-

the income of the Vt. Central R. R., and the validity of that Lease was then put in issue. Thereupon, also, the Second Mortgage Bondholders joined in the bill raising the same question, and raising, also, another question, as to the right of the Trustees of the First Mortgage to hold possession of the road.

I may state here that at this same time there were a great variety of other suits pending, some in the State Courts, some in the U. S. Courts; in short, the property became loaded down with law-suits and involved in a most expensive litigation. Meanwhile the Vt. & Canada were at a disagreement in their Board of Directors—what was called the “Boston Wing” disagreeing with what was termed the “Vermont Wing.” The result was that they were unable to agree upon any line of policy, and the Court therefore removed them as Receivers and placed the old Trustees of the First Mortgage—who were in possession at the time this bill was brought—into possession again, in the new attitude of Receivers and Managers;—that was in 1856. That of course revived the old question as to the right of the First Mortgage Trustees to hold the property, and brought in the Second Mortgage Trustees as claimants for the possession of the property. In consequence of the quarrel between the “Boston Wing” and “Vt. Wing,” raised issues in the State of Vermont and her interests and rights in this road, under the charter, and a hostile, bitter feeling arose. Meetings were held in Boston, the Trustees were denounced and declared thieves, robbers and plunderers, charged with peculations and fraud, just as the present Trustees are. There were bills in the United States Court, bills in almost every County in this State. Oftentimes hearings were had the same day in different Counties—applications for the removal of the Trustees, for leave to sue them; in short, there was a perfect maelstrom of litigation. The Trustees held their position of Receivers until 1858, and the property depreciated very much whilst in their hands. Their appointment as Receivers was regarded in the light of a purely technical Receivership—merely to hold the property together pending this controversy—with no power to define the line of policy for the future growth or development of the road, but simply holding the position of keeping the property together, which was a very embarrassing and trying one, and thus matters continued.

Q. (By Mr. Dillingham). Are you now speaking of the Trustees of the First Mortgage Bondholders? A. Yes, sir. In 1857 the Vt. & Canada got complete control of the Board of Directors, by the removal of those who had been, up to that time, the Managers of that corporation here in Vermont, by turning them out and putting in an entire new Board, and a man named Parrott, I think, was constituted President. Up to that time my father, Lawrence Brainerd, Joseph Clark, and President Wheeler, of Burlington, had been Directors in this State, holding the property, so far as they had power over it; but, by this movement in 1857, they were turned out. Now, I will go back to the charter of the Vt. & Canada. The 13 years prescribed by the charter was about expiring. The charter was obtained in 1845, so that the limitation would expire in 1858; this Board of Directors in Vermont being turned out in 1857. Previous to their being removed, however,

they had been in negotiation with the Rutland Road to see if some basis of harmony could be arrived at, by which an improved connection with that Road could be secured without further trouble, and in the hope that a favorable settlement of that matter would restore harmony between the two Roads.

A meeting was held at Burlington at which was present Judge Smalley, then President of the Rutland Road, Mr. Thatcher, of Boston, who was one of the Directors, and, I think, one of the Trustees of the mortgage of the Rutland Road, and one of the Managers of that Road, and Mr. E. A. Chapin, Superintendent; my father, who was then President of the Vt. & Canada, being also present. This meeting was held for the purpose and with a view of coming to some conclusion in regard to the question of connection and prevent the forfeiture of the charter, which the Rutland Road threatened, and were determined to accomplish if they could, and get an independent charter upon the Line they had surveyed, and reported favorably upon the Canada Line, in the town of Highgate, and thence over the line upon which the M. & Vt. Jct. is now built, that being the favorite line of the Rutland and Burlington R.R., and the fact of our people having diverted the line to Rouse's Point, constituted one of the causes of complaint of the Rutland R.R. When this direct connection with Canada was abandoned, and they lost the advantage which they thought they would derive, they surveyed their line from Burlington, along the shore of the Lake, following along west of this between this located line of the Vt. & Canada and the Lake, and crossing our line at Swanton, from thence to the Canada line, to connect with a Road that should be built from there to Montreal. A result was obtained in that negotiation with Judge Smalley, Messrs. Thatcher and Chapin, by which it was agreed that if the Vt. Central Road would abandon their Road from the Winooski River to the Lake, along this circuitous route, and build their Road through what was then known as the "Sand Bank," so as to make a direct connection and enter Burlington in the same direction that the R. & B. R.R. did, or in the opposite direction so as to give the R. & B. R.R. a continuous line out. The Central Road was also to pay certain expenses which the R. & B. R.R. had been at in their effort to protect their line.

This of course involved some legislation, some amendment of the Charter. The road could not be completed in the time prescribed which rendered it necessary to go to the Legislature for extension of time, and preparations were being made to do that, when this change took place which I have mentioned in the Board of Directors of the Vermont & Canada Railroad; this change occurred at Boston. Parrott was made President, and the Boston interest entirely controlled this road and these negotiations were broken up. Mr. Parrott refused to recognize the right of the Rutland Railroad to demand this arrangement, also declining to have any conference with the Rutland Directors. He preferred to take his chance before the Legislature; he took the ground that the connection of the road was already complied with by the old line to Burlington which I have described. The result was that in 1858 the new Directors of the Vermont & Canada appeared before the Legislature for relief from that obligation. The Rutland and Burlington

Railroad appeared in great force, with a large array of counsel and made a vigorous and persistent fight. The local interest on their projected line of road was also stired up in their behalf. The result of the fight, which lasted nearly the whole of that session, and convulsed the State, as everybody familiar with the matter can remember, was that the Legislature passed an act, which was a very stringent one upon the Vermont & Canada, compelling them to build the road from Burlington to a point in the town of Milton, making about ten miles of road to build, and compelling them to have that done in a limited time or else forfeit the Charter absolutely. The Legislature defined the route which should be taken, compelling the Vt. & C. R. R. to go west of the town house in Colchester, which would make that road cross the great Sunderland Ravine at an enormous cost, and take a line that it was almost impossible to build a road over. I think the bridge at the ravine would be some 400 feet, if I remember correctly. They were compelled to cross the gulf there, to keep west of the town house in Colchester. Mr. Parrot, the President, and the new Board of Directors, after surveying the line of road, estimated that it would involve the Vermont and Canada Railroad in an expenditure of a million of dollars to build that ten miles of road—that was ruin to the Vermont & Canada—she could not get the money unless she mortgaged her property, and failure to build the ten miles of road was absolute forfeiture of her Charter.

Thus matters stood at the close of the session of 1858. Just at this time my father died very suddenly ;—I was that year member of the Senate during that fight, and the very day a vote was taken on the bill, I received a telegram of my father's sudden death. Immediately thereafter the bondholders in Boston and the parties in this State, requested the Chancellor to appoint me in my father's place,—although I had made my arrangements differently, and was not inclined to accept the position, still there seemed to be no one at that moment more familiar with the affairs of the Road than myself—I having been their counsel all the way through, and I consented to take the position. I accordingly entered upon my duties as Trustee of the first mortgage and as Receiver, and immediately thereafter I was invited to meet some of the principal and heavy security holders in Boston, (and previous to that, for some five or six years there had never been a meeting between the Receivers and Trustees, or any of the Vermont interest with the Boston security holders,) and a more friendly feeling was established between the two parties; that was the first time any attempt was made on the part of the security holders to reconcile matters, and see if the litigation could be compromised. Mr. Edward Mott Robinson, (the heaviest stockholder but one perhaps, that one being a party in Halifax, Mr. Collins,) Mr. Kettell of Boston, Mr. Blake of Boston and Mr. Emery were the parties who invited this interview, and I went to Boston and met them. They then proposed or suggested that some effort be made to harmonize these interests and stop the litigation, and if possible save this great expense, and the building of this road from Burlington to Colchester. The enquiry was made of me whether I thought this arrangement that was made with the Rutland and Burlington Railroad could be revived in any way; I said I had no reason to doubt but what it could, and I further said

that I thought the necessary legislation could be obtained to change the act of 1858, and that such legislation could be obtained as would enable the Vermont and Canada to comply with the favorable arrangements which had been proposed and which could be done at an expense of three or four hundred thousand dollars. Thereupon we came to a satisfactory understanding in regard to all matters in controversy; so far as they and we were concerned the litigation was to be ended, and the matters of the Vermont and Canada were to be so conducted as to attempt to bring the question of the validity of the Lease before the Supreme Court. A very satisfactory result was however attained, which was accepted, except by the Board of Directors, who were then in power, who were determined to fight to the bitter end and make no concession whatever; but the stockholders, with Mr. Robinson at the head of them, were determined that that Board of Directors should not prevail, and they formed themselves into a self-constituted committee of stockholders and assumed the authority to close the arrangement.

In the next fall—1859—as soon as the annual election came on, this Board of Directors to whom I have just alluded were driven out and another Board was elected, consisting of Lucius B. Peck, Ed Mott Robinson, Edward Blake, my brother, Mr. Clarke and Mr. Porter,—Mr. Peck being president. Soon after this compromise was effected I went to the Rutland Road to see if anything could be done to effect a compromise with them. I met Judge Smalley, Mr. Thatcher, Mr. Chapin, and some of the committee of the Rutland Road. Judge Smalley and Mr. Thatcher agreed that if we would within a limited period of time construct the road through the sand bank, abandon the other road and make a connection with the Rutland Road, that they would accept that in lieu of the other charter, and that they would use their influence jointly with us before the Legislature to change the legislation of 1858 and to try and secure such legislation as to enable us to go through the sand bank. Mr. Smalley, however, required as a consideration that the expenses which the Rutland Road had been at up to that time should be paid by the Vt. & Canada R. R. Mr. Brainerd afterwards went with me, and he was present with me at the time of the final consummation of the arrangement, and that was reduced to writing.

Q. (By Mr. Davenport.) Where is that writing? A. I cannot tell if I have it or not—but it is embodied in the act itself, if you look at the act you will see it there. The arrangement I refer to was that if we would go on and build the road through the sand bank it should be accepted as satisfactory. Thereupon this famous voucher, which has been so heralded through the state found its first existence, in the payment by Mr. Brainerd of that amount to Judge Smalley in settlement of the expenses which the Rutland Road had been at in the controversy on the disputed points between the two roads which it was agreed in 1857 should be paid and which was to cover the expenses that the Rutland & Burlington R. R. had been at during the session of Legislature. That is what Judge Smalley refers to in the voucher, by stating “expenses before the Legislature,” which has given rise to the hue and cry of corruption before the Legislature. The amount represented by that voucher was used to pay the expenses which the Rutland Road had

been at during the controversy, for counsel, witnesses, &c., at the hearing before the Legislature, which were borne by that Road, and which Judge Smalley very properly, as I thought, insisted that as the Vermont & Canada were to be the beneficiaries of this compromise, they ought to assume the payment. Mr. Brainerd accordingly settled with Judge Smalley for the Rutland R. R. and took his voucher for the amount. That is the history of the great "corruption of the Legislature" of 1858. Whether or not Judge Smalley was at that time Judge of the United States Court, I am unable to say, I think he was; he was then acting as President of the Rutland R. R. The compromise which had been made by this meeting of security holders, and which resulted in the decree of 1861, worked a complete and radical change in the affairs of the Vt. Central, and all these interests were harmonized as far as they could be. Up to that point, the holders of the first mortgage bonds were in consultation with myself and this committee, and as the decree of '61 was but the first step in the contemplated compromise, by which finally this litigation was to be stopped,—yet they all assented to this, withdrew their various pending bills, or so altered and framed them so as to reduce the controversy to the simple issue of the validity of the Lease, and as far as they could, without assenting to it in open Court, they favored the adjustment and recognition of that Lease as a valid one, (of which nobody had any doubt before); the result was, that the decree of 1861 denied the remedy to the Vt. & Canada—to possess and hold the Road. That was the decree, and that was also the wish of the security holders at the time,—that instead of entering into possession themselves under their remedy provided for in the Lease, that they (the Vt. & Canada) should hold the property under the direction of the Court in the form of a Management or Receivership, if you please to call it such. The decree established the prior right to the Vt. & Canada, and provided for the payment of their accumulated rents, which for a period of about seven years had been in default, and which as claimed by the Vt. & Canada, amounted to a very large sum, they claiming the right to charge interest on the semi-annual amount at more than six per cent., and as they made up their account, it amounted to between seven and eight hundred thousand dollars, if I remember correctly. That account was referred to Masters, but nevertheless it remained as an incumbrance on the property to be paid off. The decree of the Court was that we should first pay the operating expenses, then the accruing rents of the Vt. & Canada, and the balance should go to the payment of the overdue rents.

The burden thus imposed was assumed by the Receivers and Managers at that time, who commenced to meet the payment of dividends on the Vt. & Canada, which was a very heavy one, so considered at the time, and superadded to that payment out of the net earnings was the payment of the accruing rents and accumulated interest. The first mortgage bondholders were thus placed so remote from the income as to make the prospect a very discouraging one to them, because it looked then as if it would be years and years before that seven or eight hundred thousand dollars, with its interest, would be paid up, and it was proposed to capitalize it as soon as possible and thus compromise the matter. Soon after

this, the Masters made their report, which, if I remember rightly, was in 1863 or 1862, fixing that interest at something less than \$700,000.

Q. (By Mr. Walker.) Where is that report, Governor? A. It is in the safe, sir. (Report sent for.)

Governor Smith continues:—As soon as that report was made, the Vt. & Canada and the first mortgage bondholders effected a compromise and it was agreed that the overdue rent should be capitalized into stock, bringing the stock up to \$2,000,000.

The decree of 1864, known as the compromise decree, was then determined upon by agreement of the parties by which the Vt. & Canada rents were still to remain as a first lien upon the property, and the overdue rents should be capitalized and the capital stock increased. This, however, involved the authority of the Legislature for the reason that the Vt. & C. R.R. had no power to create capital stock except for construction purposes. An application was therefore made to the Legislature and was granted, to increase its capital stock. The decree of 1864 was made and the property was by order of the Court continued in the hands of the then Managers. The first receivership of 1855 was temporary in its character and only designed to hold the property together pending the litigation. From that time forward it was expected that this property should remain permanently in the hands of a Receiver, and that the parties interested would be so far in connection and consultation with the Receivers and Managers, as to know what was being done; that the powers of the corporation should be conferred upon the Trustees and Managers; that the property should be conducted just as before, merely holding it in the Court for the protection which the Court itself could give the property in its weak condition. In conformity with this understanding the management of the property has been conducted on a different basis, and the action of the Court has only been from time to time invoked to confirm and carry out the plans and policies of the various security holders and parties in interest as settled and argued upon in consultation with the Receivers and Managers; and in evidence of this I desire now to put in evidence the action of the Vt. & Canada R.R., made upon the consummation of this compromise to show their construction and their understanding of what was to be the policy and management under this *quasi* Receivership. I desire to read from the records of the Vt. & Canada Co.

Governor Smith then read the following extract from page 285 of the Vermont and Canada records, dated February 1, 1860, as follows:

"On motion of Mr. Blake, the following preamble and resolution was adopted:—

WHEREAS, in the opinion of this Company, it is expedient and necessary that some arrangement should be made for a sure, effective and successful method of securing and obtaining business upon the line of the Vermont Central and Vermont and Canada Railroads, in order to develop the legitimate and proper resources of said roads, and to prevent a division of the business from this to other and competing lines of railroad.

AND WHEREAS, by the recent opening of the Victoria Bridge over the River St. Lawrence and the Grand Trunk Road, and the competition

which is threatened by that road for the business which belongs to and should come over this line, it is expedient and proper that all proper means should be taken by this Company to retain said business and prevent said competition, if possible, or if not, fully to prevent it to place this road where they can better meet said competition.

AND WHEREAS, this line of road have heretofore experienced great loss and embarrassment in operating their Line for want of a proper control of the road running from Rouse's Point to Montreal, in making up arrangements for running trains and in making up tariffs for transporting freight, growing out of the position taken by the Directors of said road in refusing to enter into amicable and just arrangements with said Vt. Central and Vt. & Canada for doing their business.

AND WHEREAS, By the Act of the Vermont Legislature, passed Nov. 23, 1852, and by the provisions of Section 66, of chapter 26, of the compiled statutes, authority is conferred upon our railroad Company to make contracts and arrangements with each other and with railroad corporations in other States and in the Province of Canada for leasing or running their roads or any part thereof.

Now therefore, with a view to facilitate the business of said Vt. Central and Vt. & Canada Roads, and to provide against, and as far as is possible to protect the said railroads from impending and ruinous competition, and also with a view to the better and more full development of the proper and legitimate resources of said Vt. Central and Vt. & Canada Roads,

Resolved, That it is expedient and proper for this Company to make such arrangements for connecting with and running, operating or managing the Montreal & Champlain Railroads, embracing the St. Johns Division and the Lachine and Caughnawaga Divisions, under the provisions of the Acts of the Vermont Legislature, as aforesaid.

Resolved, That Lawrence Brainerd, Joseph Clark and J. Gregory Smith be, and they are hereby appointed and constituted the agents for and in behalf of this Company, to carry into effect the foregoing resolution, in such manner as they may deem most to the interest of the Vt. Central and Vt. & Canada Companies, and as will, in their judgment, best secure the end sought to be attained. Said agents' action to be joint and no agreement or arrangements to be made unless all of said agents agree therein.

The Board of the Vt. & Canada R. R. at this time consisted of Hon. Lucius B. Peck, President; Edward Mott Robinson, Gardner Brewer, Edward Blake, Hon. John Porter, Jed P. Clark, W. C. Smith.

Before continuing the subject at this point I will go on in chronological order to other matters and then I will take up the subject from the time I have just been speaking. As I have stated, in 1864 this compromise Decree was made by which the interests of the Vt. & Canada and 1st mortgage bondholders were brought into harmony. The same parties who made this compromise of 1864 were to continue their negotiations and a further compromise was effected which resulted in the Decree of 1866, by which the same process of funding the overdue coupons of the 1st mortgage was to be adopted, that had been adopted to fund the overdue rents of the Vt. & Canada. An agreement was

made between the first and second mortgage bondholders with the assent of the Vt. & Canada, that their overdue coupons should be compromised and fixed at one million dollars; the actual amount was considerably over that sum but a concession was made, and the Court was asked to add to and enlarge the mortgage itself from \$2,000,000 to \$3,000,000, bearing seven per cent. interest; and the second mortgage, for certain considerations, which the decree set forth, were to surrender all their coupons and extend their mortgage, with new coupons attached, for twenty-five years. Up to that time there had been but very few, perhaps not more than one or two of the second mortgage coupons ever paid; the bankruptcy of the Vt. Central ensued soon after that mortgage was executed and most of the coupons were unpaid. They thereupon agreed to surrender all their coupons, cut them off and take new coupons and extend the time of payment twenty-five years. The Masters will please bear in mind that at this time the principal of both mortgages had matured. The new coupons were issued under order of the court and extended their mortgage for twenty-five years. They got some of the S., S. & C. Bonds as payment on one or two of their coupons as consideration. This extension of twenty-five years was from 1866, which virtually made the extension about thirty years from the date of the maturity of the mortgage. The first mortgage bondholders also surrendered their over due coupons (except those ordered by the decree to be paid) and took new coupons running for twenty years, instead of having an over due debt against the property.

The consolidated bonds were then issued under order of the Court by virtue of its decree, and the mortgage was brought up from two millions to three millions of dollars. That decree of 1866 completed the negotiations which were began in 1859, as already stated; it was one continual compromise finding its consummation in the decree of 1866. This settlement of difficulties and establishment of harmonized relations between all parties had its effect upon the property, relieving the Trustees and Receivers and Managers from the burdens upon them, and gave them an opportunity to devote themselves to building up the interest of the property instead of looking after law suits. The business began to grow, and the earnings to increase with great rapidity, so much so that under the liabilities which we assumed as common carriers, we were pressed by the customers all along the line of our road for greater facilities for moving their freight; suits were commenced against us by parties who held freight in the warehouses because we had not cars enough to move it; actions were brought for loss, etc., because we did not furnish proper facilities for the transportation of freight. As I have stated, the capital we had created made such a draft upon the income that there was nothing left to improve the property, and the road had not, at the time of its failure to pay rents in 1854, earned enough to pay dividends; yet here we were assuming to pay dividends of the Vermont & Canada with its capital increased up to two million dollars, and the interest on the first mortgage bonds increased to \$3,000,000. Considering the depreciated condition of the road itself—and any one who can recollect the condition of the property in 1858 will remember the fact that it was almost an impossibility to get a train over this road without

an accident—the power badly run down, the track in a horrible condition, the buildings and stations greatly depreciated, the side tracks wholly insufficient to accommodate the growing business of the road; the income of the road was so fully absorbed as to leave nothing to furnish the increased equipment and other facilities which were so absolutely needed. There were, therefore, no means of raising funds unless we stopped payment of the Vermont & Canada dividends.

The question was what should we do?—and here I want to state a point for the benefit of the counsel on the other side, to show the understanding we had, and the relation that we stood in not only to the Court, but to the public, and the security holders when we entered upon our new receivership in 1861. It was the understanding and expectation of the Court that the parties interested in this property would take its management, and the Court would simply aid those parties in their management, by such decrees as the parties desired them to make to further and facilitate the operations of the road, and to benefit the security holders; and if the Masters, when they examine these accounts, will take the decrees from the time I have named until this time, they will find that in every single instance the Court have simply acted as they were acted upon by the security holders and parties interested in the property. Not a decree or order has been made except to aid the parties after those parties had signified to the Court what was wanted. It was for this purpose that in 1864 this advisory board was created, to stand in more immediate relation to the security holders, and to relieve the Court of any connection with this property any further than that they simply were to stand as the conservators of the property itself, and to aid the parties in interest in any movement, operation or measures which might arise and which they might consider to the interest of the property, so that acting precisely in that spirit and on that basis they furthered any measures that the security holders recommended to provide the means for a growing enterprise.

But to return to the point from which I diverged, the question was what should we do for money, where was it to come from. The earnings were absorbed in payment of dividends and interest, funds must be had for repairing the road, putting it in proper condition, getting our power up into an efficient condition, and our track also. We were aware that it would not do to stop paying these dividends, if we did it would discourage the security holders and depreciate the value of their property on the market. We did not want to take the responsibility of obtaining funds, without consultation, and we would not take the responsibility of stopping payment of the dividends. In this state of affairs we appealed to the Court, and if the Masters will read the petition itself, which is on record, they will see that we represented to the court just the naked facts as they were, stating item by item just what was wanted, with an estimate for each item. Thus we submitted the question to Court for them to say whether the requisite expenditures should be made, and if so what measures should be adopted to raise the means to provide the items required. The Court summoned all the security holders, the Vt. & Canada, the Committee of the bondholders, and many of the bondholders themselves; many of the second mortgage bondholders had

voluntarily become parties to the proceedings. The Court directed that all the parties interested should be notified—not simply by publication in the ordinary way, as prescribed by the statutes—but they directed that the Receivers should go to the expense of making personal service on the bondholders and the Vt. & Canada. We sent our man specially through Boston and Philadelphia and notified the parties in person to appear. The length of the notice was thirty days, but when the matter came on for hearing, so great was the importance and magnitude of the question, both in its relations to the property, for securing the necessary funds and in establishing a precedent for this Company, that the Chancellor hesitated even then to go on, and he postponed the hearing of the case, and ordered the notice to be continued, to be published so that all parties might be present, on the very theory I have stated, namely, that the Court did not intend or design to run this road, although it had the power to do so, but it was understood by the Court that the parties had taken the actual management of the Road into their own hands. When the day for the hearing came the Vermont and Canada Road was here not only by counsel but by a majority of her Board of Directors. The committee of the first mortgage bondholders were there in person, and the committee of the second mortgage were represented by a letter signed by them to Mr. Edward Phelps as their Counsel, under positive instructions, in that letter, to assent to the raising of funds by borrowing. We had stated in our petition that there were but two ways of raising the money—one to hold back the dividends and thus appropriating the earnings, the other by borrowing the money for a period of time and trusting to the future growth of the road to be able to pay the debt. The position taken by the Receivers was that it were better to forego the payment of the dividends and appropriate the earnings of the road, rather than run into debt. It was the Vermont and Canada R.R. herself who insisted that such a course would be ruinous to their securities, and that the only way to meet the requirements, was to borrow the money; and, I remember well, the remarks of the Chancellor, that undoubtedly the wisest policy and the best husbandry was to keep out of debt, but inasmuch as the owners of the property themselves were there present, and desired the creation of the debt, that he would sacrifice his own best judgment and the judgment of the Receivers, and adopt the plan recommended by the owners of the property, and he authorized us to borrow \$700,000, and pledge certain property named in the decree, and make the loan a lien upon the future income of the property. We accordingly arranged to raise the money in that way and the security holders came forward and invested, the Vermont and Canada stockholders also invested largely in these bonds. At this very hearing before the Court, in reply to the argument of Mr. Blake one of the Directors, who, not content with the presentation of his cause which his counsel had made, asked leave to be heard by the Court, himself, and he protested strongly against holding the earnings of the road and stopping the dividends which would depreciate the stock.

I said to Mr. Blake, "You must bear in mind this property, like a growing child, will need future aid, it will not stop here, but as it grows, the same question will return again for increased equipment and facilities;

now then, if it were simply for this once, and no future necessity was to arise, it would make but little difference, but as this is to become the precedent for future action, it is important to settle the policy of the security holders."

Mr. Blake replied that the property was growing rapidly and that it was far better to trust to the payment of those debts out of the future growth of the road than to depreciate the securities and dishearten the security holders. So much for the first of these loans; the same general course was adopted in the subsequent ones with the exception of the last equipment loans which was assented to by the committee of the mortgage bondholders.

Q. (By Mr. Fifield.) Was that the income and Extension Bonds?

A. Yes, sir.

Now before coming down to the next class of liabilities which have been incurred, I desire to go back to the action of the Vt. & Canada in reference to the vote of Feb. 2, 1860, and to the action of the Trustees and Receivers and Managers under it. Mr. Brainerd, Mr. Clark and myself went to Canada to endeavor to make some arrangement by which the Line could be extended to Montreal. We entered upon negotiations with the Montreal & Champlain R. R., and the result was that the Board of Directors of that Road voted a lease of it to us, with a view to the permanent absorption of the Road into this Line. The stipulated percentage was agreed upon, but it became necessary for the Directors of the Road to call a meeting of its Stockholders, and a meeting was duly advertised in the papers, to consider the question of this lease to the Vt. & Canada. The G. T. R'y became alarmed, they had just then finished their bridge across the St. Lawrence and had settled their policy that they would control every avenue to Montreal. They thereupon managed to acquire a controlling interest in the stock of the Montreal & Champlain R. R., and when the meeting of Stockholders came, much to our surprise and the astonishment of some of the Directors of that Road, for they had moved very quietly in the matter, the lease was rejected. Immediately thereupon the G. T. R'y absorbed the M. & C. Road which fell permanently into their control. The same year in which that negotiation of ours failed, this charter from St. Johns to the Line was obtained, known as the Montreal & Vt. Junction R. R. The original application was for a charter from the Line through to Montreal, but Mr. Ferrier, who was then a member of Parliament and President of the Canadian Board of Directors of the G. T. R'y, and a Director in the Montreal & Champlain Road, strenuously opposed the lease to us, and brought all his influence to bear against it; our application was defeated, and the Quebec Legislature interposed and forced the projected Road to terminate at St. Johns instead of at Montreal. We had just previously (in 1859) consummated our arrangement with the Rutland Road, by which we had harmonized that interest, and they were keenly alive to the importance of the extension of the Vt. & Canada Road to Canada Line, and to carry out their early and favorite plan of going on to Montreal by way of Highgate, and they had done as much as any one to stimulate the procurement of this Charter in the Quebec Legislature. Judge Smalley was here to see me several times, and submitted the

question to the Board of the Vt. & Canada, and they submitted the question of their liability under the Charter to Judge Isaac F. Redfield, who gave a written opinion, which was produced here the other day. He held there was no escape from the conditions of the Charter, and that the Vt. & Canada were obliged to construct the Road after our failure to secure control of the M. & C. R. R. I reported to the Vt. & Canada Directors just what we had done, and what we had failed to accomplish. The question then was whether we should still carry out our purpose; it was then suggested that we get control of the Charter of the Stanstead, Shefford & Chambly Road, which, as I have stated here before, had a perpetual right to build from St. Johns to Montreal, and inasmuch as the G. T. R'y were looking to that Road to get a connection with the Passumpsic Road and thus have that outlet for through business to Boston, the Directors of the Vt. & Canada were anxious that we should get the control of that Road, and thus secure an independent Road into Montreal, which was then considered, and is, a very important point. Failing therefore to get this M. & C. R. R., they advised that we get control of the S. S. & C. Road, and prevent the G. T. R'y making a connection with the competing Line by way of the Passumpsic Road, and by way of Magog Lake and Massaweppe Road, and also to get the right of building into Montreal by a Charter already in existence.

Just at this time we succeeded in getting control of the charter of the Montreal & Vermont Junction Road, under a pledge that if it was surrendered to us we would go on and build the road, and there was an understanding that the Rutland Road should contribute \$50,000, and our Line should contribute an equal amount, and so aid the parties in Canada, who were poor, in subscribing towards the construction of the road. The G. T. R. were then trying hard to get control of the S. S. & C. Road, and we had to move very cautiously in our efforts in that direction. Mr. Foster was just then considerably embarrassed, the G. T. R. charging him very heavily for the use of power, and he came to me and stated his embarrassment and I advanced him some money, and from that time commenced the operation of getting control of that road. We let him have more money, from time to time, and as security took his machinery, and put our machinery upon his road. These negotiations resulted in the execution of the Lease to Mr. Clark and myself of the S., S. & C. R. R., and we entered into possession. I stated in my former examination that we did not have the lease ourselves. I was called upon unexpectedly, as I did not suppose the examination would take the turn it did, and I had no opportunity to refresh my recollection of the details of this matter. My statement was purely from recollection, and prominent in my memory at the time was the fact that we were holding this road for the ultimate accomplishment of the object we started for in 1861. It was only when I afterwards had opportunity to examine the papers that I found that the lease was taken by Mr. Clark and myself of that road, from Foster, and we had to take it in that form for the time being. Mr. Foster was very cautious and we had a great deal of trouble to secure the desired result. We were holding that road at the time entirely for the benefit of the Trust, and here I will state

that I was in consultation continually—all the while—with the Vt. & Canada Directors, and with the committee of the bondholders, as Mr. Pinkerton stated to you. I made not a move but what I advised with them, and they were thoroughly cognizant of all the matters that I was engaged in connected with that road, of the monies that I advanced, &c. As I stated here before, the understood object was to get the control of the S., S. & C. Road and lease it to the Montreal & Vt. Junc., and thus bring both roads under control of the Trust.

In June, 1865, we had a consultation with the committee of Bondholders—not the committee I have just mentioned—but a committee of six, which had been appointed by the first and second mortgage bondholders, and represented both interests. That committee consisted of Messrs. Emery, Andrews and Mr. Drury—or Mr. Pinkerton, I don't remember which,—Pinkerton was their attorney. In Philadelphia the party consisted of Judge Hepburn, O. W. Davis and a Mr. —, I forget the name. They constituted the committee of six. We were in consultation with that committee and with the Vermont and Canada, reporting to them the progress we were making. In June, 1865, the Committee invited the Bondholders to go and see the property and extended a public invitation, the result of which was that a very large excursion of Bondholders went over the line of the S. S. & C. Road with the express purpose of looking at the property. When the lease was finally consummated, Foster still kept his connection with the Road, keeping on his men, and was unwilling to have any charge. Mr. Gourdiner was continued right along as Treasurer, as you will see by the books of that Road; Foster continuing to take the funds. In order to bring things to a point, the question was discussed with the Bondholders as to what should be done, and they advised that we should purchase the bonds and stock of that road and own it.

Q. (By Mr. Walker.) Was the price fixed then? A. No, sir; they did not know what the price would be. Negotiations were at once opened with Mr. Foster, and in May, 1866, everything was finally settled and that road became a part of the Vermont Central and Vermont and Canada line. Afterwards the present bonds of the Trust known as the S. S. & C. bonds were issued; they derived this name simply from the fact that these first mortgage bonds of the S. S. & C. Road and the stock of that Company were pledged as collateral security for the bonds of the Trust by the order of the Court which authorized the Receivers and Managers to issue these bonds.

That is the history of the purchase of the S., S. & C. Road and of the whole transaction.

Equally true is it of the M. & Vt. Junc. so far as relates to the action of this committee, and the action of the Vt. & Canada in their vote that we should secure an independent line to Montreal, and although they did not expect to make any contribution beyond the \$50,000, which was to be shared in by all the line to Boston, yet it was understood they were to stand behind the matter so far as this point was concerned—that when it was opened they were to take the road from Mr. Clark and myself, and when the surrender by Mr. Linsley occurred that question arose and it was expected that the Vt. & Canada Road or the Trust would advance us more money. We had advanced all we could

spare. At that time, however, the Vt. & Canada came to Mr. Clark and myself, and urged us to go on with the road, it being of great importance to them that it should be completed, as the failure to construct that road would leave the Vt. & Canada without an outlet, and the money expended upon the construction of their road would be thrown away. Mr. Clark and myself felt that we had a double obligation resting upon us, to help the Vt. & Canada and secondly, to redeem our pledge to the parties on the line of that road in promising to carry the thing through, as a condition of the surrender of the control of the charter to us, we accordingly took hold and carried it through with the expectation that it would immediately come into the possession of the Vt. & Canada in some form—either as a lease or purchase and a discussion came up then with the Vt. & Canada as to the method of doing it. Mr. Peck said he did not see how it was to be done, they could not go to their stockholders for an increase of capital to purchase the road—and with reference to leasing it, he said, “we are but a leased line ourselves with no equipment and no power to perform a lease.” So the matter was allowed to lie along until 1870 or ’71 when we understood it should be brought to an issue one way or another; it was then that the Vt. & Canada Co. passed a vote and it was at my own personal solicitation that the Vt. & Canada Road took action on the subject.

In this connection I will read an extract from the minutes of the Vt. & Canada Directors’ Meeting, Jan. 5th, 1871, as they appear upon page 386 of the Vt. & Canada records, as follows:—

Also the following preamble and resolution was submitted and passed.

“WHEREAS, the Montreal and Vermont Junction R. R., extending from the Province Line in the town of St. Armand, Province of Quebec, to the point of junction with the Stanstead, Shefford and Chambly Railroad, near St. Johns, in the said Province, constitutes a part of the line of the Vermont Central and Vt. & Canada Railroads between St. Albans and Montreal, and is the only mode of connection under the control of the Vt. Central and Vt. & Canada with the Stanstead, Shefford & Chambly R. R. now owned and controlled by the Vt. Central, and whereas it is desirable to place said Montreal & Vt. Junction R. R. in a position where it may be permanently under the control of this line of road. Therefore, *Resolved*,

That the President, Messrs. Porter and Athurton be a committee with full powers to confer with the Trustees and Managers of the Vermont Central and Vermont & Canada Railroads as to the best method of securing the said Montreal & Vermont Junction Railroad on some safe and permanent basis, and to assent in behalf of this company to such contract or arrangement as may be agreed upon between said Trustees and Managers of Montreal & Vermont Junction Railroad Company; *Provided*, That in whatever contract may be made for the Montreal & Vermont Junction Railroad the Trustees and Managers of the Vermont Central and Vermont & Canada shall assume the running and operating of said road, so long as they shall continue in possession of said roads, and save harmless the Vermont & Canada from any

liability on account of any claims for damages, or any losses which may occur, arising from the running and operating said roads."

The committee mentioned in the record which I have read, met and conferred upon the matter, to put it into a formal shape. It was carrying out the negotiations that had been pending between us all the while, and under which we had the pledge and assurance which they gave to Mr. Clark and myself.

Now then a complaint is made of the compensation given to us; when we commenced to receive that compensation we considered that the road would soon pass into their hands.

With regard to the fifty per cent. of the earnings of the road which we received, it is my judgement that if that road had been equipped by the Montreal & Vermont Junction Company it could easily be operated for fifty per cent. of its gross receipts, if not for forty per cent. That arrangement of fifty per cent. has been continued along until 1873.

I have prepared a statement of the cost of operating the M. & Vt. J. from the books of the Trust and from such data as I could obtain, but I want the Masters to understand that I do not put it in as an authentic and accurate statement, however, I have done the best I could in getting it up.

[Gov. Smith then read the various items composing the statement the total of which was \$341,560.00.]

I have no doubt there are other items that should go into this statement but I am not able to get at them, and the statement as it stands is as near as I can get at it.

Further with regard to the operating of that road at fifty per cent., I am satisfied, in view of its freedom from bridges, and the fact that its operating expenses are light, that the Trust has been fully remunerated for all the expenses they have been at in the working of that road, to say nothing of the advantage which this road gets by the connection with that road, in the way of through freight. If that road had stood in an independent relation, it would not have pro rated on its through business; no road standing in the same position could pro rate on that business and live; yet in making up these gross receipts of which they pay us half they have put all this business on a pro rata basis. We have to pay the Grand Trunk Railway a specific on their road from St. Johns to Montreal, they will not pro rate with this road on the Canada business, yet we have taken the half of the gross receipts on just a naked pro rata division of the low priced freight—everything has gone along on this pro rata basis, whereas if I had not stood in the relation I did it would not have been so.

Q. (By Judge Pollard.) Do you believe, Governor, that there can be any very considerable amount of expenses in running that road which you have not got on that statement? A. Well, I don't know of anything more; there may be possibly some errors in computation there of car service; there may be some other items which should go in.

Q. (By Mr. Fifield.) Explain the nature of the M. & Vt. J. Road, Governor, as regards grades, curves, &c.? A. It is in the main a straight line, the curves are very short, and they only occur where the road diverges off from one tangent line on to another, unlike our road here, which winds and twists, and has some heavy grades, that road for nine miles at

a stretch is a straight and practically a level line. The characteristics of that road are all extremely favorable, especially when you consider that the great element in the cost of operating a railroad is the cost of maintaining your road bed and machinery.

Q. (By Mr. Fifield.) Is not the renewals of iron an important item? A. Yes, sir; I was looking up that matter and I find that it is now ten years since the road was constructed, and as near as I can get at it, they have not put down much over one thousand tons, showing that they have not relaid, within ten years, one half of the road, thus proving that the character of the country over which that road runs is very favorable to the wear of the iron. Take this road with its heavy grades and curves, and the life of our iron here is not over four years, whilst on that road, the life of the iron, and I think, I am correct in my statement, is ten years.

Q. (By the same.) What is your opinion of the operating expenses of the Vermont Central Road being from sixty-five to seventy per cent?

A. For the six months ending June, 1875, I think it was sixty seven per cent of the gross receipts upon this road.

Q. And the renewals of iron is continually going on? A. Yes, sir.

Q. So that is not a fair test on a road on which the iron is new?

A. Well, no sir.

Mr. Davenport—Governor, if you want to deal fairly in this matter you should take some road which we can examine into.

Witness—I was about to continue that the period I quoted would not be a fair test of the average of operating this road. I do not claim that. Sometimes the expenses run from seventy to eighty per cent; but I think you will find there are several years during the period under examination where it has run from sixty-nine to seventy-five per cent, some years, perhaps, as high as eighty, my impression is that the average would show a percentage of seventy-five per cent.

Mr. Willard—The average from 1867 to 1873 is over eighty per cent.

Witness—Well, that includes all the extraordinary expenses.

Q. (By Mr. Fifield.) Now I want to ask you, as a railroad man of some experience, whether in your judgment, that road, the M. & Vt. J., could be operated, while it has been operated by the trust in the way it has, for fifty per cent of its gross earnings? A. I think it can, sir, and I do not believe it has cost this road more than that.

Q. (By the same.) Has that been a reasonable compensation for what they have done on the road, in your judgment? A. I think it is, sir.

Q. (By the same.) Do you think the owners of that road have received any more than a reasonable compensation for the use of that road? A. No, sir.

Recess was then taken until 2 p. m.

AFTERNOON SESSION.

Statement of Governor Smith continued.

I have stated already that the character of the relation of the Receivers to this property was merely a temporary receivership to hold the property together from 1855 to the time when this compromise was made, which resulted in the decree of 1861.

In connection with that I wish to call the attention of the Masters to the report made by the Bondholders' Committee of February, 1865, which is filed in this case, and of which I will read an extract:—

"The committee chosen by the bondholders February 18, 1865, under decree of the Court to inspect from time to time during the year the accounts of the Trustees and Receivers and audit them and generally to advise with the Trustees in regard to the policy and management of the railroads and property in their hands, beg leave respectfully to

REPORT.

"Prior to the decree of January 19th, 1861, which settled all questions of controversy between the different parties in interest, the Court appointed Masters to examine and audit the accounts of the Trustees and Receivers, and to report thereon to the Court; but by the decree mentioned, the first mortgage bondholders, the party next interested, after the Vermont and Canada Railroad Company, had the right through the committee representing them, to attend to this duty, and watch the just expenditures and appropriation of the earnings. In a word this ward of chancery, in its own opinion, as well as in that of the Court, had come to such strength and years as to be able to do without "Masters." The committee accordingly commenced their labors at that point where the Masters had ceased theirs, the last reports of the latter to the Court on file having brought the examination down to July 1st, 1861. From this date the committee examined every voucher to December 1, 1864, a period of three years and five months, and they take pleasure in saying that the system of keeping the accounts at the offices is admirable. Checks are used which would seem to preclude mistake or collusion, both in the receipt and disbursement of money—a matter of great moment in the handling of between one and two millions of dollars by the management annually. Not one of the trustees touches the money, as it comes in and goes out of the treasury. It all passes through the hands of Mr. G. Merrill, the superintendent, in whom the trustees place—and as your committee believe most deservedly—entire confi-

dence. An able and skilful accountant keeps the books, charging all cash received, and crediting all paid out. No money, not even the smallest amount, is paid out without a voucher, which has first to be approved by the head of each department and afterwards by Mr. Merrill. Every voucher is numbered, and the number, with the record of the payment, entered in the cash-book. So that it is always easy to find any payment and judge of its character. The number of vouchers examined by the committee was over six thousand.

TRUSTEES' ACCOUNT.

The committee state the result of their examinations, and the account of the trustees and receivers from July 1st, 1861, to December 1st, 1864, as follows:

We charge them with balance in their hands, as per last report of masters, July 1, 1861.....	\$29,416.37
Debts due trustees July 1, 1861, as per said report.....	72,966.23
Cash in hands of financial agent and others as per said report July 1, 1861.....	101,929.87
Additional accounts due trustees, being in suspense, as per said report.....	16,950.61
Shop stock, oil, wood, &c., on hand July 1, 1861.....	146,408.98
Gross earnings of the road from July 1, 1861, to June 1, 1862, 11 months.....	713,417.73
Gross earnings from June 1, 1862, to June 1, 1863, 1 year,	941,045.59
Gross earnings from June 1, 1863, to June 1, 1864, 1 year,	1,227,807.35
Gross earnings from June 1, 1864, to December 1, 1864, 6 months.....	798,585.08
Bills payable.....	65,080.91
	<hr/>
	\$4,113,418.72
We credit them with liabilities of the trustees, and receivers as per last report of masters, July 1, 1861.....	\$10,106.74
Expenses of operating the road from July 1, 1861, to June 1, 1862, 11 months.....	521,537.49
Expenses, &c., for one year, to June 1, 1863.....	678,159.58
Expenses, &c., for one year, to June 1, 1864.....	941,843.59
Expenses, &c., for six months, to December 1, 1864.....	699,801.33
Shop stock, oil, waste, &c., on hand June 1, 1864.....	164,289.28
Amount paid Vermont and Canada Railroad Co., for rent from July 1, 1861, to December 1, 1864.....	499,888.00
Amount paid for construction of Burlington Branch Wharf and Like improvements at Burlington.....	377,032.55
Amount paid on account of building Swanton Branch to December 1, 1864.....	220,760.16
	<hr/>
	\$4,113,418.72

In that report there is a settlement of the accounts of the Trustees from 1861, down to Dec. 1st, 1864, in conformity with the decree of 1864, and the agreement upon which it was based. Included in that settlement is the balance found by the last report of the Masters—\$29,-

416 37, to which is added various other items, together with the gross earnings of the road to Dec., 1864. They then credit us with the liabilities of the Receivers and expenses of operating the road up to that date with the inventory of property on hand, amount paid the Vt. & C. for rents, and for the construction of the Burlington and Swanton branches. The two sides of the accounts being thus balanced at \$4,118,418.72. The report then goes on to state that besides paying the rent of the Vt. & C. there has been paid various other expenses.

What I desire to show is that by the decree of 1864 the whole plan of management of the road was entirely changed, and that the property was to be managed independent of the Court and by the parties interested, except that it might be necessary for the Court to exercise its general control over the property, and consequently in all the measures that have been taken by the Receivers and Managers in the subsequent management of the road property, in the taking on of additional lines and in the building, and contributing to the building of additional roads, to the enlargement and improvement of the property, it has been for the furtherance of the general undertaking of protecting the interest of the trust, and applying its resources to the best advantage, and all with the full knowledge and concurrence of the various security holders. They have done just what the corporation would itself feel prompted to do.

Governor Smith then read an extract from the record of the bondholders meeting, dated Feb. 18, 1865, as follows:—

“With reference to any old disputed questions in the accounts of the Trustees and Receivers existing prior to the settlement embodied in the decree of January 19, 1864, the bondholders present expressed the opinion that in order to secure harmony and good feeling, the committee acting as Special Masters, in closing up this examination had better pass all the accounts of the Trustees and Receivers according to the spirit of the said settlement.”

The importance of the statement of the action of this committee is simply to show this, that we, as Receivers and Managers, occupied no such restricted position, in regard to the management of this property as is claimed by counsel on the other side, and also to show that on every important question they acted in concert with the committees appointed by the bondholders, and the corporate representatives of the Vermont and Canada, the only parties then in interest. We claim that we are not held to the restricted and technical administration of the Receivership as claimed by these parties. The decree of the Court recognizes the fact that we are to go on and provide for the developments of the road, and do what is necessary to protect its interest, and so far as we have gone we claim that what has been done has been done honestly and in good faith.

The various equipment loans which have been raised from time to time have been necessary from the increase of business upon the road. The Masters will please bear in mind that when I came into the Trust in 1858 the earnings were only about \$700,000 per year, perhaps less, the growth of the road from that time up to 1872 has been such, that in that year, 1872, the gross receipts were over \$2,000,000 from the Vt. Central and Vt. & Canada Roads, independent of the leased lines. In 1858 the property on hand, including cars, engines, wood, and shop stock

amounted to \$800,000; the amount of property on hand, and which we turned over to the new Receivers in 1873 was over \$7,000,000, and in addition we had a thoroughly well ballasted road in high condition. So that you will see that in the period mentioned we have more than doubled the equipment of the road. We have also built shops, wharves, depots, and improved the property generally to its present good condition. In view of all this it seems to me that there is very little room left for the charges of fraud, waste and speculation which has been so maliciously and ruthlessly made against the Receivers. I doubt if there is a road in New England that is to-day in a better condition than the Vt. Central, both as regards its track, and the general efficiency of its power and equipment.

Q. (By Mr. Fifield.) Will you now state the particulars of the lease of the Ogdensburg and what gave rise to it? A. I can give you a history of that matter if you require it, but I think I had better explain to the Masters a few facts in relation to the Missisquoi Road.

The present Portland & Ogdensburg R. R. was originally designed to connect with the Vt. Central R. R. at Montpelier, but in consequence of the failure of the town of Montpelier to contribute its municipal aid, the St. Johnsbury interest became dissatisfied, and application was made to the Legislature to extend the charter (or to create a new Company), from St. Johnsbury to Swanton or Georgia, in the County of Franklin. They then surveyed both these lines, one to Georgia, to connect with our road there, and the other to Swanton, running by this plan. Mr. Fairbanks, of the P. & O. Road, was almost in constant communication with me, either personally or by letter, and it was expected that that road would unite with our road and bring this road into a new and valuable line to Portland; and, so far as I could encourage that object by my own efforts, I did so. We tried to get the Portland & Ogdensburg Road to unite with us at Georgia, which would give us business on about eighteen miles more of our road than if the junction were made at Swanton. Growing out of the excitement gotten up in this part of the country, the P. & O. R. R. were, I think, strongly inclined to make their junction at Georgia; but the excitement had become so great and the town of Swanton and other towns on the line had responded so promptly by their contributions that Mr. Fairbanks found himself embarrassed by the situation.

The territory east of us is the great park of our dairy supply; it feeds our road and brings us more of that business at this station than any other station on the line of our road. Our people felt that if that road were built it would divert this produce traffic and be a great blow to this road, and that some measures should at once be taken to protect the interest of this road, and draw the butter and cheese traffic to our line. We had gone into an expensive preparation for ice houses and ice cars on the line of our road so as to take the butter and cheese to market in good condition, and it was felt that the business could not be given up without enormous sacrifice, and they decided to make a vigorous effort to get this road (Missisquoi?) built, believing that if that was done it would secure to this road the control of this business, and bring the freight from the towns of Enosburgh, Berkshire, Montgomery, Richford

and the north part of Sheldon and Franklin, and north portion of Bakersfield, at which places the best dairys are, and from which it was nearer to reach the stations on the proposed Missisquoi R. R., than the stations of the contemplated P. & O. R. R.

Between Sheldon and St. Albans is a high ridge over which the dairymen had to haul their butter and cheese in wagons and in the fall season when the largest quantity of product goes to market the roads being very heavy at times almost impassible. When the plank road was projected, it was surveyed over what was believed then to be the only feasible and accessible point for crossing this high ridge; and Capt. Jarritt, the engineer of this road, made his report to the Directors at that time, that the point at which this ridge could best be crossed was near what was known as "Chadwicks," which was the lowest portion where the ridge could be got over.

When the Lamoille Valley Road was projected, they went into the towns of Enosburgh and Berkshire (although their road did not run through any of those places) and made a strong appeal to them to bond for the building of their road. In order, therefore, to protect ourselves, without getting into a controversy with the Lamoille Valley, or Portland & Ogdensburg R. R., this road decided that their only course was to build the Missisquoi Road into that part of the country and hold that traffic. Accordingly this charter was obtained from St. Albans to Richford, called the Missisquoi Charter. After our people decided to take hold of it, interviews were had with people living in the towns lying east, and they gave their assurances that if we went on with the road they would make contributions and help it along. The towns along the line subscribed \$227,000 towards building the road, and it was expected that this road would take the balance of the bonds and build the road. We then arranged to dispose of these bonds in Boston at a rate which satisfied Mr. Harris, the contractor, who agreed to take the proceeds of all these bonds for the construction of the road. Now, then, all we were asked to contribute to was the expense of the survey, and what we have advanced in the way of machinery, cars and engines to aid the construction of the road. That was all that had been contributed by the Receivers and Managers up to the time of the completion of the road. The account of that road presented here is mainly for the deficiencies of the earnings of the road, and the forty per cent. to pay the interest on the bonds which this road guaranteed. In other words, we leased the road and agreed to pay forty per cent. of its gross receipts, which should pay for the interest on those bonds; and had it not been for the panic and the hard times we have had, the business on that road would have been such as to have made the earnings sufficient to have covered the interest on this money without any loss, in my judgment. And in my opinion the business on that road will eventually become such as to cover the interest. Take for instance the fact that on that line of road there is an unbroken tract of timber land said to be the finest lot of spruce in this section of the country, the proprietor of which will soon commence business there and throw the lumber down over the Missisquoi Road. I state these facts to show that the estimates made by the management at that time fully justified the contract which we made with that road, and I firmly be-

lieve that time will disclose that the road will so develop as to fully answer all expectations, but the present hard times have had their effect upon all railroads throughout the country.

Now, with regard to the Ogdensburg R.R. The base of that road was taken to protect this line, and it was absolutely necessary that it should be leased, and that was done with all the formalities, so far as the action of the bondholders and the Vermont and Canada were concerned, and the best judgment of all the parties was exercised in reference to it, and the lease was approved by the Court.

Q. (By Mr. Fifield.) Who were the Lessees? A. The Vermont and Canada were the lessees. Our object in leasing that road was to get a through line, and it was thought that it would tend to the consolidating of these lines. It was thought that if the leases of the Ogdensburg Road and the R. & B. R.R. could be effected it would produce harmony among the roads, and give the line the advantage of what would virtually constitute a double track from Boston to this point and only a single track from here to Essex and West. We could handle a train here at St. Albans once in ten minutes. The matter of the lease was openly discussed in the papers and the necessity of bringing these roads into a consolidated form and thus prevent the little local jealousies and troubles which disturbed the harmony of the line and the power of the Managers was strongly advocated and urged. At that time everything was at the high tide of prosperity, we were constantly increasing business, nobody expected such a fearful revulsion as we have had during the past few years, and which has contributed in part to the depressed condition we are in to-day.

Q. (By Mr. Fifield.) The statement of losses on the Ogdensburg Road, which has been filed,—is that a fair or just statement of the real losses to this Trust? A. No, sir; for the simple reason that when we took that road we restocked it with wood and shop stock, the expense of which was charged right in to the operating expenses of that road, as did every dollar of improvement on that property. Last winter, when the question was put about the surrender of the Ogdensburg Road, Gov. Page and myself estimated that that road would have to pay nearly \$400,000 if we surrendered the road, for improvements and betterments and for shop stock, &c., on hand; and if they take the road back they will have to reimburse this road for those items.

Q. (By Mr. Walker.) Do you mean that the money invested for shop stock, &c., on the O. & L. C. Road was charged into the operating expenses of this road? A. Yes, sir, and that is one reason why this apparent deficiency is swollen up.

If we had not taken the lease of that road it would have been open to competition to the D. & H. C. Co. and the Portland and Ogdensburg Road, which would have been a disaster to this road; and here I would state the opinion of Mr. Schultze, who was one of the committee who examined into this question of the Ogdensburg, and a thoroughly experienced railroad man; it was his judgment that this road had better pay annually a loss of from one hundred to one hundred and fifty thousand dollars rather than let that road pass out of our hands and come under the control of another road. Just before we leased that

road, the Rutland Road were about to push their road up on the west side of the lake and do what the D. & H. C. Co. have since done, namely: effect a connection at Mooer's Junction with the Ogdensburg Road. When they had completed their road through to Mooer's Junction, in connection with the Ogdensburg Road, it was their plan to make a through line that way and so cripple us; whether they would have taken the Ogdensburg Road or not I don't know.

Q. (By Judge Poland.) Do you understand that the P. & O. R. R. had nearly effected a contract with the Ogdensburg Road when this road took the lease? A. Yes, sir; I am aware of that.

Q. (By Mr. Fifield.) There has been an exhibit filed here of losses on the Boat Co., does not what you have said of the Ogdensburg Road also apply to the Boat Co.? A. So far as maintaining the line it does, sir.

Q. (By the same.) And the losses on that company come out of the business which the boats bring to the line? A. Yes, sir. The Ogdensburg Road contributed \$125,000 for the starting of that line. When this road was built there was no outlet from Ogdensburg west, and only propellers of a given capacity could reach Ogdensburg in consequence of the Welland Canal, through which large propellers could not get. The Ogdensburg Road recognizing the importance and necessity of getting an outlet to the West came forward with a contribution to aid in the starting a through line of boats. I think when the boats first started it was a weekly line, and was then increased so as to run semi-weekly; or else they commenced a semi-weekly and increased to a tri-weekly, I am not sure which. Finally business increased sufficiently to justify the formation of a daily line of steamers, leaving Chicago and Ogdensburg daily, but the company had not capital enough itself to do this, and it was thought advisable to aid the company in this project.

These propellers, too, were of limited capacity, and could not carry the amount of freight that their power would justify. Where one propeller would bring ten or thirteen thousand bushels of corn, the power of that propeller was sufficient, if it had the capacity, to bring down between fifty and sixty thousand bushels. We thought it would be an advantage if we could fit the boats up for passengers, and establish the daily line. The matter was fully discussed, and the parties interested in the boats all agreed that it was for the interest of the line from Ogdensburg to Boston to strengthen them up and make a daily line. It was proposed that we should make a contribution in proportion to our mileage, by which we should thus bear about fifty per cent. of the whole amount contributed. This we were unwilling to do and finally fixed our limit at \$50,000. The Ogdensburg Road put in \$50,000, the lower roads contributing a share and the balance being made up privately. The boat line thus continued along until 1871, when the competition being very great that Company failed. At this time the Allan Line of Steamers, running between Montreal and Liverpool, had got up to a powerful position, and had a desire to secure the boat line to bring grain from the west to their steamers for exportation to Liverpool. As I stated before this boat line was then the only line of boats that could come through the Welland Canal, with the exception of a few "wild" boats. When the Boat Company

*18. P. & H. C. Co. over a steamer line in
N. T. Co. for 1871 probably*

failed, these Montreal parties proposed to buy the propellers right out, in which case, had they done so the boats would have been entirely disconnected with our line, and it was thought we might as well give up our road as let the line of propellers go, and we decided to raise money enough to relieve the Boat Company of its difficulties. The question then came up, how should it be raised; we were not in any condition to make a contribution ourselves. We said it was no use applying to us we had got as far as we could go. Finally, the Ogdensburg Road came forward and agreed to issue out their bonds to the amount of \$600,000, to run twenty years. These bonds they sold among their security holders and privately, provided the line between Boston and Rouses Point would take these boats and run them, or put them into the hands of Trustees and run them, and out of the earnings of the business which these boats bring to the line, a sinking fund shall be established which should at the end of twenty years be applied to take up these bonds. So that we were only called upon to appropriate our proportion of the earnings from the business which those boats brought to us, nothing more, and if in any year the business from the boats was not sufficient to pay the interest on the sinking fund, then no contribution was to be made beyond the actual amount of business received.

Q. (By Mr. Walker). Who operated the boats after you took them? A. General Stark and myself, as Trustees for the line.

Q. (By the same). Did they pay operating expenses? A. No, sir.

Q. (By Mr. Walker). How were those losses made up? A. They were made up out of the earnings of the business that came from the boats to the line. That was in addition to the sinking fund. We appropriated the gross receipts of the business coming from those boats over our line. We said we wont tax any other business, but only to the extent of business coming from the boats.

Q. (By Mr. Walker). And do the business for nothing? A. We did it for the sake of maintaining the line; but it never absorbed the income.

Q. (By Mr. Fifield). When you say you maintained the line, it was to pay for the boats, was it not? A. Yes, sir; we owned the boats when we paid the bonds. The sinking fund at first was very much larger, and now amounts to something over \$200,000 that we have in there towards payment of the boats. For the first two years we had to reduce \$100,000 of the \$600,000 which the Ogdensburg Road had contributed, so as to reduce it to a permanent loan of \$500,000. The sinking fund was at first larger than now in consequence of our contribution to reduce the loan. So that the losses as they now stand consist of the \$200,000 (which is a charge on these boats), and the balance is made up of the expenses of operating over and above the receipts of the boats themselves.

Q. (By Mr. Willard.) Governor, you spoke of this payment being made out of the business coming over the line. You mean, I suppose, simply that it is paid out of the gross receipts of the business—not the net receipts. A. No, sir, out of the gross receipts.

Mr. Willard said he should like to have a statement of the payments made to the sinking fund, and also of the amounts paid for operating expenses in excess of the receipts.

Q. (By Mr. Willard.) Governor, in reference to your remark that the losses on the Ogdensburg R. R. were increased by reason of the payment for stock and materials on hand at the time of the lease. I find a statement filed showing the operating expenses for that year to be \$736,798 81. I do not see anything included there for the purchase of stock, materials, &c. A. Yes, it was distributed all through.

Q. What I want to know is whether there was anything more than the actual operating expenses put in for that year? A. No, sir, there would not be for that one year. The amount for shop stock and material would be distributed through.

Q. (By Mr. Fifield.) There has been an exhibit filed (No. 35) of payment of interest on the first mortgage. Will you please state whether that interest has been paid by the concurrence of the Canada Directors, and generally if it has been understood by its security holders, and how they hold those securities, that is how your securities are mingled up among the security holders? A. I suppose there are comparatively very few of the securities held by very few parties who hold of any of the securities exclusively. Take the Vt. & Canada stockholders, they hold more or less of the first mortgage, and of the equipment bonds, and so intermingled are they that the payment of one reaches the payment of all so far as the individual is concerned. I do not think there has been a coupon advertised or paid without it has been done with the knowledge of a large proportion of the security holders, and always with the sanction and approval of the committee of the 1st Mortgage bondholders even to the payment of the Vt. & Canada rent. I doubt there was ever a rent came due without the Committee of Bondholders were not consulted about payment.

Q. How about the Canada directors? A. I don't know that we ever made it a special matter with them.

Q. Well, they knew about it, did they not? A. I should think they did, sir.

Q. Do you always advertise the payment of interest in the Boston papers. A. My impression is that up to 1872 we have.

Q. I mean the coupons which you actually paid, did you not always advertise them? A. I think we have. I think Mr. Williams up to 1872, always published notices in the papers.

Q. I think you stated that in all important matters the directors of the Canada Company and this bondholders committee were always consulted? A. Yes, sir; in regard to the taking of the Rutland lease they actually passed directors votes.

Q. How long was that matter under negotiation before the lease was actually taken. A. The first time any of them approached me on the matter was in June, 1870, when the directors came here, and from that time it was under negotiation until it was finally consummated in December, 1870.

Q. Have you a book in your possession signed by certain bondholders who took S. S. and C. Bonds. A. No, sir; not signed by

them; we have a book which contains the payment to them, with the names of the parties receiving payment together with the amount; that is a book which is kept by the treasurer.

Q. (By Mr. Davenport). Is that signed by any of the bondholders? A. No, sir; it is the record of the treasurer at the time the amounts were paid.

Q. Whose writing is that book in? A. Mr. William's, some of it, and some Mr. Wilbur's.

Q. Will you state if Mr. Williams is now living? A. He was the last time I saw him.

Q. Are Mr. Wilbur and Mr. Ranlett living? A. I believe so, sir; I saw Mr. Ranlett a few moments ago, so I presume he is living.

Mr. Davenport objects to the book in question as evidence, on the grounds that it is not signed by the bondholders, and not testified from, by the parties making the entries in the said book.

Objection overruled by the Masters and the book admitted as evidence; to which ruling, admitting the books as evidence, and permitting Gov. Smith to testify to its contents, Mr. Davenport desires to take exception.

Mr. D. D. Ranlett called and duly sworn.

Examined by JUDGE POLAND.

Q. Mr. Ranlett, did you ever see that book before? A. Yes, sir.

Q. What is it? A. That is a book which was kept to show the redemption of certain coupons of the first and second mortgage with the S., S. & C. bonds.

Q. Did you do any part of that business? A. I made exchange with a very few; the bulk of it was done by Mr. Williams when he was treasurer.

Q. Are there some entries in the book in your handwriting? A. Yes, sir. These transactions were done in the Boston office when Mr. Wilbur was treasurer. Some of the entries were made by me. I was assistant to Mr. Wilbur.

[Witness here showed which of the entries were made by him.]

Q. Whose handwriting is the rest of the entries? A. Almost almost all Mr. Williams. There are five entries in Mr. Wilbur's writing, six are in mine, and the remainder are all made by Mr. Williams.

The book in question, which is marked outside, "First and Second Mortgage Coupons, June to December, 1867," was then filed as evidence by Judge Poland, and marked "Exhibit 31a."

Governor Smith re-called by MR. FIFIELD.

Q. Do you know to what amount the bondholders took these S., S. & C. bonds? A. Up to the date of Nov. 1871, there appears to have been \$418,900 exchanged, and \$23,500 sold, making a total of \$442,400 and the rest remained on hand.

Q. I show you these books, please explain what these books are? A. This one appears to be the Record of the Exchange of the overdue interest on the first mortgage bonds, for the consolidated bonds pursuant

to the decree of 1866. The heading of the pages reads as follows:—
 “We, the undersigned, holders of Vermont Central R.R. first mortgage bonds, bearing date Nov. 1st, 1851, hereby acknowledge to have received from the Trustees of said bonds as hereinunder shown, 50 per cent of the par value thereof in new bonds, called bonds for consolidated 1st mortgage interest issued to us in pursuance to the decree of Court, dated April 14th, 1866, for the settlement of the arrearages of interest due June 1st, 1866, on 1st mortgage bonds; and in consideration thereof, we hereby surrender our overdue coupons on the said last named bonds and release all other back interest due thereon up to said June 1st, 1866, which surrender and release it is hereby understood are to be in discharge of said coupons and back interest upon the items and in the manner set forth in the approvals of said decree, and in pursuance of said decree, extending said 1st mortgage bonds for twenty years from June 1st, 1866; the undersigned also hereby acknowledge to have received from the said Trustees, as shown below, a sheet of forty new coupons at three and a-half per cent each for every first mortgage bond held by us to cover the interest accruing thereon during said twenty years.” The book purports to be a record of bonds held by each bondholder, number of first mortgage bonds, name of bondholder, residence, number of his bond, denomination, total amount, total number of old coupons surrendered, value of each issue, total number of new coupons issued, value of each, dividend of back interest, total amount of consolidated interest bonds issued, amount of fractional cash, and signature of bondholder.

This book, above referred to, was put in as evidence by Mr. Fifield and marked Exhibit 32a.

Q. What is this book? (handing witness second book of the three) —see last question. A. This is a book marked “Second Mortgage Bonds, Vt. Central R. R., new coupons issued.” It purports to be a book of receipts by the second mortgage bondholders of new sheets of coupons. The receipt at the head of the page reads as follows:—

“We, the undersigned, holders of second mortgage bonds, Vermont Central Railroad Co. hereby acknowledge to have received from the Treasurer of the said Company new sheets of coupons of three and a half per cent. each to run for twenty-four years and six months from December 1st, 1866, and in consideration thereof we hereby surrender all the old coupons due and to be due on said second mortgage bonds as herein under shown upon the terms and in the manner provided in the Decree of Court dated April 14th, 1866, extending the said mortgage bonds twenty-five years from June 1st, 1866.”

The top of page gives also, name of bondholder, residence, number of bond, denomination, total amount, number of old coupons surrendered, value of each, total new coupons issued, value of each, signature of bondholder.

This book was filed as evidence by Mr. Fifield, and marked exhibit 33a.

Q. I now show you the third book, what does that purport to be?

A. This book is entitled, “Second Mortgage V. C. R. R. Interest Bonds.” It purports to be a book of receipts of the second mortgage

bondholders for new sets of coupons issued under the decree of April 14, 1866. The receipt reads as follows :—

"We, the undersigned, holders of coupons numbered below 5, of the second mortgage bonds, Vt. Central R. R. Co., hereby acknowledge to have received from the Treasurer of said Co. new second mortgage bonds at par in payment of said bonds at the face value thereof as herein under shown, the said bonds being issued to us on surrender of said coupons, in pursuance of the provisions of a decree of Court dated, April 14th, 1866."

On the top of the page is the date, name of bondholders, residence, number of bond surrendered, number of coupons below 5 surrendered, amount of coupon, total amount, number of new bonds issued, denomination, total amount, signature of bondholder.

This book was also put in by Mr. Fifield, and marked "Exhibit 34a."

Q. (By Judge Poland.) Can you tell from those books how generally the second mortgage bondholders came and took the new coupons? A. There have been attached to old bonds, adjusted to date, sheets representing \$.

Q. (By Mr. Walker.) Do I understand you to say that those books contain the actual signature of the bondholders? A. Not in every case; there may be cases where letters came authorizing the treasurer to sign for some of them, in which case the letter would be on file in the office. I have not looked through the book to see how generally the bondholders signed actually.

Mr. Walker then asked to have a list of those bondholders whose names did not appear on the books in question signed by bondholders personally, which list was promised to be supplied.

Mr. Fifield :—I want to call attention to cash book F, page 173, upon which appears the following certificate of auditing :

"August, 28th, 1866.

"Examined and allowed from December, 1865, to May 30th, 1866.

"JOSEPH ANDREWS,

"J. M. PINKERTON,

"ROBERT F. TAYLOR,

} Committee First Mortgage Bonds"

I want Gov. Smith to explain to the Masters how it happened that those accounts were settled in this way instead of in the manner as called for by the Decree of the Court? A. The Decree of the Court required us to file our statements with the Court semi-annually, so that this Committee might make their examination; but, instead of that, the Committee preferred to come direct to the books and vouchers, rather than take the semi-annual statements that were filed in Court. They preferred to come to the vouchers and books and examine at headquarters; and the Receivers, supposing that that would satisfy the requirements of the decree, accepted the certificate of the Committee in that way, instead of going through the technical requirements of the Decrees.

Q. Have there ever been objections made to certifying in that way, or any questions raised as to the legality of the settlements? A. Never.

to my knowledge, sir. The Vt. & Canada saw the books at one time after they had been so certified.

Q. How often have the Auditing Committee been here? A. They made their full settlements of the accounts once in six months, but generally came once a quarter and examined the books for the quarter; they only certified to the books once in six months. I have not looked to see that that was done every six months; it was supposed to be. The course adopted by the Committee was this: They went to the Treasurer's office, took various sets of books for that period, examined them carefully, noted the items, looked through the vouchers and laid aside those which needed explanation. They would then send for Mr. Merrill or the Treasurer and obtain any explanation or information they required regarding the vouchers; and those vouchers which were still left unexplained they would reserve, to be explained by the Trustees. So that, any vouchers which neither Mr. Merrill nor the Treasurer could throw any light upon, they would bring to the attention of Mr. Brainerd, Mr. Clark or myself, to give the necessary explanations.

Q. Have you ever used any influence with this committee in any form to induce a settlement of these accounts? A. No, sir; I was never with them during their examinations at all. They had free access to all the books and vouchers, made their examination in their own way, and when they got through we answered any questions in reference to the accounts. The committee would often make suggestions and give advice upon matters they thought beneficial to the property, frequently going out themselves to the shops and on the line of road to make examinations, and if they found anything they thought was wrong they would suggest such plans as would, in their opinion, effect an improvement. Sometimes they would suggest modifications of our rules and regulations. I do not remember any transaction of any importance but what it has been subjected to their examination and discussion. Sometimes we could not get at them to consult with them before commencing a thing, but they were consulted before the work was through as a general rule.

Q. I understood Mr. Pinkerton to say he never approved of the expenses of maintaining the organization of the Vermont Central? A. I think Mr. Pinkerton spoke rather unadvisedly. I do not think he reflected sufficiently. The vouchers for the money were there, and the accounts examined by him, and I think you will find entries of cash payments upon the very books that have been approved by him, and I think he spoke inadvertently.

Q. How is it about the tram-road? Mr. Pinkerton says that nothing was said to him until after it was completed. Will you state what knowledge the committee had of that transaction? A. I cannot say definitely, or positively, whether before the commencement of that thing the committee were consulted or not. I know there was a consultation held with Mr. Huntington at Boston (he was president of the mining company), and I am confident that at that time Messrs. Pinkerton and Drury were invited to that meeting at the Revere House, and I think that if I could refresh Mr. Pinkerton's memory that he would remember the transaction. I think Pinkerton and Drury were there—still I wont

swear positively to Mr. Pinkerton being present—I think he was. It is also my opinion that Mr. Pinkerton and Mr. Drury—one or both of them—went with me up to the mines, over the road, to examine it.

Q. How generally was this known about the tramroad? A. After we decided to lay iron down instead of wood, it was pretty generally known. Mr. Shaw, who had charge of the tramroad, was in Boston, and talked the matter up a great deal. He was very much struck with the timber land and, as I have said, he made a great deal of talk about it in Boston generally, and with the lower roads.

Q. (By Mr. Davenport). Was that in your hearing? A. Sometimes in my hearing. People would come and talk to me about what Mr. Shaw had said to them.

Mr. Davenport: I guess we have had enough of this "hearing," unless the masters admit it as evidence.

Q. (By Mr. Fifield). Will you state, Governor Smith, as to the propriety of building that railroad, what the inducements for it were, and what motives actuated you in its construction? A. Our object was to see if we could not develop the business of those mines. They were represented as most valuable mines. We had received a large amount of tonnage from them up to that time, but it had to be hauled fourteen miles to reach our nearest depot. We also had in contemplation, and have still, the extension of that road on to Magog and to Sherbrook, and there make a connection with the road which is to be constructed from Sherbrook to Halifax, and also with the road which is constructed from Sherbrook to Quebec, some thirty or forty miles of which is running. The result of this extension of the tramroad would be very advantageous to this line, bringing to us business from the Eastern provinces.

Q. What about the land grant? A. We had a land grant of ten thousand acres which was very valuable. We have had offers to take the land grant and pay for the road; there is fine water power there.

Q. (By Mr. Edwards.) Is that from the Missisquoi River? A. Yes, sir. We cross that river between Waterloo and Magog, and there is no doubt but that the timber lot will be converted into lumber eventually, which will find its outlet over our line.

Q. With reference to the property on hand as shown by the Report of 1861; did that property go into the general consumption and operation of this road after that report? A. Yes, sir, it went right along. There never has been any rest on our books until 1873, when Receivership was closed and the Corporation came in as Receiver. The books went right along continuously and to explain to the Masters what I incidentally alluded to yesterday when my brother was testifying, the cash account on that date was probably rested on the 1st July, 1861—it is easy to come to a rest in your cash account any day. It would be impossible to get those accounts made up for the Masters until the amount of stock was all taken on the line of road, so as to present to the Masters the doings and operation of the road up to that time. It now takes us from sixty to ninety days to get our inventory of stock up for the whole line; it probably took us then from thirty to sixty days and these accounts could not be prepared at all to the Masters without an inventory was taken. The same set of books being continued right along, it was

impossible to have made a rest when this report was filed in 1862 or '63, whenever it was, it would have been utterly impossible to have gone back to the books from July 1st, and balance them up to that date. The transactions were going straight along through from day to day continuously, and therefore we regarded this statement to the Masters as not involving a balance due against us to be accounted for and paid in to the Treasurer. It was a statement by the Masters of the account as it happened to stand on that date, perhaps the next day it would be entirely changed. How much of cash goes in to form that 23,000 odd dollars it is impossible for anyone to tell, because it is made up by striking balances of our cash, our balances due from connecting roads, our shop stock and material on hand and all the assets of the Company worked in together to the general balance of \$23,000, so that how much of it is cash, and how much material, and how much balances due from connecting roads we cannot tell--nobody knows how the Masters arrived at that result.

Q. Can you tell what the balance actually was on that day? A. No, sir, I have not seen the book.

Q. (By Judge Poland.) This accounting of the Masters had not the slightest influence upon your accounts, everything went right along?

A. Yes, sir. We never made a rest in the books at all, but went right along continuously.

By MR. FIFIELD.

Q. You were called upon to account for cash on hand, and property on hand the 1st July, 1861. Now so far as there was any property on hand that day, has it either been converted into cash, or used up in the operating of this road, or been turned over to the new Receivers in 1873?

A. It has all been worked into the general property of the road, and has continued absorbed into the general property of the road.

Q. Which was turned over to the new Managers in 1873? A. What ever was left on hand on that day we turned over.

Q. And if it was cash on hand it went into the account and was carried on continuously and would be embraced in the present cash account? A. Yes, sir.

Q. Now I will come to the next element in this accounting, it is whether these cash accounts that have been filed, embrace all the cash receipts and disbursements? A. I so understand it, sir.

Q. Have you ever received any money out of this Trust but what you have accounted for? A. Not a dollar, sir, except what appears upon the books.

Q. I want to ask you, now in your opinion, how you have managed these roads.

Question objected to by Mr. Davenport and withdrawn.

Q. Gov. Smith, will you now tell the Masters what you can in reference to these car companies, and through freight; and state if the Trust had any money to buy cars with? A. The National Car Company was to secure the patent of an adjustable gauge car, and the roads west of us were very anxious to try the experiment. We had no money, nor had any of the roads in the line, to test the experiment. In opposi-

tion to us at that time were the New York Central, New York & Erie, and Pennsylvania with their fast freight lines, and they had introduced the element of sending a car load of freight right through from the shipping point to its destination without breaking bulk—that is without transshipment—and on time contracts, which with some classes of freight was a great advantage. We had no through line at that time, except the water line; we were shut out entirely for six months, whilst navigation was closed, and then we could only get heavier class of freights, we could not obtain the lighter freight, such as boots, shoes, etc.

The G. T. R. were anxious that we should form a through line, and I tried to negotiate with that road to establish a through line via Ogdensburg, but Mr. Bridges was unwilling to do that. When this adjustable car wheel came up, which was a contrivance whereby the wheels could be so adapted as to run the cars over a broad or narrow gauge road, that is, they were so constructed as to expand or contract, as the case might be, when that came up there was a meeting of the roads in our line, but they were unwilling to try the experiment which they did not think would be successful, but they were willing, if anybody would try the experiment to make a liberal allowance for the use of the cars. The party inventing this wheel wanted \$50,000 for his patent but the roads were unwilling to purchase it. Finally a company was organized who purchased the patent right and built two hundred cars and put them into the service and to the surprise of everybody it proved more successful than any one expected. When they first commenced running these cars they received three cents car service, which was cut down to two and a half cents, afterwards to two cents and finally to one and a half cents. Outside men said "if you have faith in this thing we have not, but if you think it will be successful and will risk your money as well as asking us to risk ours, we will try it." We were anxious to get the experiment thoroughly tested, whether we had much faith in it or not, and from Chicago to Boston, managers of roads came forward and took the stock. Mr. Brainard took some, Mr. Clark took some, Mr. Cheney took some, the committee of bondholders took some, they went among the security holders and they subscribed. In that way sufficient capital was raised to build the first two hundred cars. The capital was put in at 50c on the dollar. It was considered that while it might pay well at first, yet the life of a car would at best be brief, and therefore it was thought best to issue stock at 50c on the dollar. We all believed we were doing the best thing we could for the line in taking that stock, inasmuch as by these cars the line would be put on a footing with the other opposition lines, so that we could compete with them, and hold our position for through business. The result, as I have said, proved very successful, and the car service was reduced. Since that time the G. T. R. has changed its gauge from broad to narrow and the Car Company have now quite a large number of cars which all run through. There are some of the gauges of the Western roads that are a trifle wider than ours, and along the yards at Chicago and Detroit the curves are very sharp, and as they cannot be bothered with cars getting off the track those roads will not take our cars with their narrow tread wheels. This company had no money to build cars whether we

would be willing or not, we did not feel at liberty to borrow, we did not want to raise another equipment loan. It was not that I was personally in favor with this Car Company, because I never believed in these outside companies. I think the best policy is for a road to hold its own cars. A great many of the roads are interested in these outside car companies and allow them on their line. Almost every road that runs from the East to the West, the N. Y. Central is largely interested, so is the Boston and Albany. The cars are owned by outside parties, I think, still I will not be certain.

When the Vt. I. & C. Co. came up it originated in this way:—The lumbermen of Ottawa were anxious to get their lumber to our markets without its going through the hands of "middlemen" at Burlington and elsewhere; the Ottawa R. R. at this time did not extend up to the mills, but was five miles from them. Mr. Reynolds, President of that railroad, invited a conference with the Managers of this road and the lumbermen at Ottawa, to see what could be done, and our first mortgage bondholders' committee and board of management went up there to look over the ground, &c., at Ottawa. We had a long interview with the lumbermen and they were very earnest in their wish that we should equip the line and put on a certain number of cars. The length of our cars at that time was 28 feet; the lumbermen wanted we should put on longer cars than that, namely 33 feet cars, their reason being that they could thus ship two lengths of their 16 feet lumber into a car of that length and thus get a car load into a car, whereas they could not load a car full in the 28 feet cars. Mr. Reynolds offered that if we (the V. C. R. R.) would equip the line he would build his road up to the mills—that is, the five miles of road between the Ottawa R. R. and the mills; I would state that three hundred cars was the minimum number that the lumbermen would be satisfied with. We discussed the matter when we got home here, and the question arose how we should raise the money to build the required cars. The committee were unwilling to recommend another equipment loan to the public, and they proposed themselves that we should organize a company similar to the National Car Co., and that a car service of 2½¢ per mile should be paid. Thereupon the V. I. & C. Co. was organized, the committee came forward and took stock, and money was also raised outside the road to build the cars and put them in the line; and I have yet to learn that they have been of any injury to the line; we have certainly derived great facilities from which we could not have had without those cars. Then we got a higher rate of car service from the lower roads than we paid the Car Co. We charge the lower roads upon a tonnage basis and settle with the Car Co. upon a mileage basis and we get the benefit of the difference. We receive 4¢ from the Northern R. R. and 4½¢ from the Cheshire and Conn. River R. R.

When we sent down over the Cheshire and Conn. River Railroads we made half a cent. We paid the Car Company two cents per mile run, and got from those roads 4½ cents per mile run for the cars.

Another feature in the Car Companies is that they do all their own repairs, whilst the Red, White and Blue Line cars are repaired by the railroads over which they run, and it seems to us to be a favorable ar-

rangement with us to have the repairs done by the Car Company. I have recommended our Board of Directors to furnish money to buy the cars, but they have not yet seen their way clear to do so, and it is a very nice question whether we could maintain the cars in the manner they are maintained by the Car Company. I would state here that if a car should happen to be damaged and the fault was the railroad's, then we should have to bear the expense of repairing. If a car was broken up and the accident occurred from a broken rail, or if the car was so damaged by any fault of ours, we should replace it. Any other damages were repaired at the expense of the Car Company.

Q. How about the life of a car, Governor—what is your opinion upon that matter? A. There is a great diversity of opinion upon that subject. The life will, of course, depend upon the service the car is put to, so that the life is longer upon a short road. I think the average life of a car is from five to seven years. I think our experience will show that I am correct in this.

Now, in regard to the cheap freight, I have only one thing to say: We get all we can get of it, and we secure the best rates we can. I quite agree with Mr. Stewart and Mr. Marcy and any of the gentlemen whose depositions have been taken and read here,—it is to the benefit of a railroad to get as good prices as they can; and I agree with them in saying what a road *ought* to have, but I think if the question had been put to Mr. Stewart as to what he actually got, I don't think he would have said he got as much. I know that, on the very day Mr. Mosely's deposition was taken, the T. & B. R. R. were carrying freight from Troy to Boston at a much lower rate than they testified to. They should have been asked the question, what they *did* receive, as well as what a road *ought* to receive.

With regard to freight from the West coming eastward, we do not fix those rates; they are fixed in Chicago and Detroit, and it is simply a question whether we will take the freight at the fixed rate, or decline to receive it, and if we refused to carry the freight at the fixed rates and went out of the through line the result would be disastrous to us. Hence we have gone along taking the freight at the ruling rates, and hoping that things would improve. That is all that can be said about it. It is too low, and it is a very questionable point whether it is not as well or better to put our cars on the side track, and engines into the engine house, and stop taking this freight, but the Board have not been willing to do it. With regard to freight going from east to west; the bulk of the freight is the other way, consequently the greater number of empty cars run westward, and if we only get enough freight in the cars to steady them they will run safer than if running back empty so that viewing it in that light it pays us to take the freight even at a low rate rather than run the cars back empty; it is the same in this respect as carrying ballast in a vessel.

With respect to the margin we claimed in giving through rates to which I referred in my testimony the other day, that is only on freight going west, never on freight coming east, the rates for which, as I have said, are fixed in the west at Chicago, St. Louis, etc. There is a

redundancy of freight at the west, and I cannot say why it is we cannot get better rates than we do; certain it is that we cannot.

Q. (By Mr. Davenport.) Did you say that the Red, White and Blue Lines were owned by outside parties? A. That is what I understand they were; I am not positive as to that.

Q. (By the same.) Don't you know that those lines of cars are formed by the railroads over which they run, each furnishing its proportionate number of cars, according to mileage? A. I have understood it to be that way, and I have understood, also, that outside parties owned the cars, and have been so informed by parties interested in those car lines.

Q. (By Mr. Fifield). I want to call your attention to Exhibits 10a and 10b. Please explain those two papers. I also call your attention to "Exhibit 10, voucher 435," at the same time. A. These two vouchers, 10a and 10b, were the settling up of the monies which had been loaned by this Trust in the purchase of the S., S. & C. Road—that is, loaned to Foster. Mr. Merrill was at that time financial agent of the Trust, and when he ended his relation with the Trust he insisted upon the matter being settled up. As Mr. Clark and myself had negotiated with Foster, Mr. Merrill held us responsible for the amount. For the money that had been advanced to Foster this Trust took the property, and Foster had been credited to that extent, and this was simply a matter of form in turning over the property and settling the matter. The final purchase of the road was effected in 1866, the year after we took this property off the road. Of course this personal property was not included in the purchase; that purchase was for the road only, independent of this stock of ties, lumber, engines, &c.

Q. I notice that the contract of sale includes these locomotives; why was that put in? A. That was to cover the whole transaction and get the total cost to the Trust. This voucher 435, "Exhibit 10a," is for amount of shop stock on hand at Waterloo May 1st,

1866.....	\$ 1,994.48
Amount of cash bills due S., S. & C. R. R., May 1st, 1866,	
collected by trustees and managers V. C. R. R.....	25,182.61
Less, amount not yet collected.....	16,425.63

Leaving..... \$8,756.98

When we came to turn the property over there was that amount due us, and they settled with us and gave us their notes. These vouchers simply show the turning over to this road of the property which was on and upon the S., S. & C. Road during the time we operated it as weca.

Q. (By Judge Poland). Who did in fact operate that road during that period? A. We furnished the money to do it, but Foster really the road—he would not give up until the final purchase was consummated. That was one thing that made the bondholders, in 1865, anxious to end Foster's connection with it.

Q. (By the same). As you got the lease of the road personally, the property was turned over to you, and this was the dealings of the Trust with Foster, done in your names? A. Yes, sir. The operations

the road were carried on by us, and we were the only parties liable. The amount which we paid Foster for the rent of the road absorbed the greater part of the receipts of the road, that is net receipts.

Q. (By Mr. Walker). And more, too, did it not? A. I don't know how that is. I have not examined the account. Foster got all there was. Clark and I never received a cent.

Q. (By Mr. Fifield). You said when first examined that your memory was not clear upon this matter, and you stated that the whole thing, from 1861, was for the benefit of the Trust; what did you mean by that? A. I meant just what I have explained to-day. The Vermont & Canada determined to get possession of that road, for the purpose I have mentioned, and we took this method of getting hold of the property. From the time we first began negotiations with Foster, down to the time the thing was finally consummated, all the operations of the road were carried on by Clark and myself as lessees, the objects we had in view being simply for the benefit of the Trust. We became responsible for everything, accounted for everything, purchased the property, ran all the risk and carried the thing along until we brought around the final result. These settlements, represented by the vouchers just shown me, wound up our relations personally to the property, and the Trust then, for the first and only time, paid for the material, &c., which they got off that road at that time.

Q. Did you in the settlement of those matters ever make a dollar personally out of the transaction. A. No, sir; nor did Mr. Clark; not a dollar.

Q. Did the Trust lose anything, so far as you know? A. Not that I know of. I have never been through the accounts to see.

You will notice in the purchase of the S., S. & C. Road the amount of \$65,000, for which we gave notes, which, added to the \$250,000, constituted the purchase at that time when we formally settled. So that it stood us in then \$315,000 in gold, and what has since been added to the road as premium on gold, and interest on those notes, which interest ought to be charged against the earnings, but Mr. Merrill, without my knowledge, carried into the cost; that brings up the nominal cost of that road to \$417,000, but the real cost was \$315,000; making a purchase of 43 miles of road for less than \$10,000 per mile, which was regarded as a very cheap purchase. Even reckoning it at \$417,000, it would be less than \$12,000 per mile, which would be remarkably cheap.

[Statement of car service paid to the National Car Company, filed by Mr. Walker and marked "Exhibit 94."]

Court then adjourned until next Thursday, Sept. 30th.

THURSDAY, SEPTEMBER 30TH, 1875,—MORNING SESSION.

Court assembled at 9 o'clock, a. m.

Gov. Smith re-called by Mr. FIFIELD.

Q. Gov. Smith, what was the contract price for building the Swanton Branch? A. \$25,000 per mile, I think, sir.

Q. What was its actual cost? A. I don't remember exactly. I think about \$35,000.

Q. How was it that it cost more than the contract price? A. At the time of the settlement with the contractor, when the work was completed, he made a large claim for extra work, which we declined at that time. Finally, he sent us the following letter, which I will read:—

ST. ALBANS, 8th May, 1865.

Messrs. J. G. Smith and J. Clark, Agents for construction for Vermont and Canada R. R.

GENTS:—In view of facts and matters, heretofore understood, it seems proper that upon final settlement of the contract for construction of Swanton Branch I should ask an advance of thirty-five per cent. upon the original contract price.

You will remember that at the time wages were \$1.10, that soon after your engineer pressing me to greater progress the wages advanced from \$1.10 to \$2.00, which price was paid until the completion of the work. Bills for materials, etc., furnished by you, also correspond, as for instance, spikes furnished in 1863 are charged 5½ cents; in 1864 at 10 cents per pound.

Please notice, also, that at the time the contract was made, gold was quoted at 1.40, and that for six months in 1864, during which time most of the work was done, the average was about 2.50.

At the time of making this contract neither party anticipated any such advance in prices. Under all circumstances this claim seems just and, even more, liberal.

Trusting that the work has been performed to your satisfaction, allow me to ask for an early adjustment of accounts.

Yours, etc.,

J. F. BARNARD.

A copy of this letter was filed as evidence by Mr. Fifield and marked "Exhibit 35a."

Witness continues: That letter, as well as the account, was considered upon by Mr. Clark and myself, and we were satisfied that the allowance ought to be made. We were not, however, willing to take upon ourselves the responsibility of determining the matter of prices, and the subject was referred to a committee of the Vt. & Canada, appointed to settle with us. The result was that an advance was made upon the contract price. He claimed an advance of 35 per cent., and I believe he was paid to that extent. The original price was \$250,000; thirty-five per cent. additional added to that would bring it up to \$350,000, and I think the balance was made up of the land damages. I state these particulars purely upon recollection, and, but for the fact that I happened to find that letter, the details of the matter had passed from my mind.

Q. (By Mr. Walker). Can you find the original letter? A. Yes, sir, here it is, (passing the letter to Mr. Walker).

Q. (By the same). Where is the original contract with Mr. Barnard?

Q. (By Mr. Fifield.) I call your attention to "Exhibit 79," cost of construction of the Montreal & Vt. Junc. R. R., please state what means you have taken to ascertain the actual cost of construction of that road, what information you have obtained upon that subject, and whether you made an account of it and if it is correct? A. This statement which I have here of the cost has been made up from the best data I have been able to obtain. It has been a source of great perplexity, and rendered all the more difficult and almost impossible to get at the facts from the condition of Mr. Clark. The whole supervision, payment of money, &c., were conducted by Mr. Clark, although he generally consulted with me in matters of moment connected therewith; at that time I was officially connected with the Government of the State and the labors incident to my official position were such that I could not attend to the details of the construction of that road. Mr. Clark, therefore, took entire control of the executive part of it. But in search among the papers at Mr. Clark's, I found some receipts from the contractor for monies paid to him from time to time, and from this as the starting point (although we had made up the estimate on a different basis, not knowing where these receipts were) I have attempted to make up a statement of the account. This statement I have is made up in part upon an estimate from Mr. Linsley's statement about the road, and from my own knowledge—I have to trust to that almost entirely in consequence of Mr. Clark's bad condition, which is such that he can only speak a few moments, and then his mind wanders, so that I have had to trust to Mr. Jed P. Clark to catch his father when he was in a condition to converse, and to ascer-

tain what he could at such times as he was able to obtain information. With reference to the premium on the gold paid in the construction of the road, Mr. Jed P. Clrak has ascertained from the Merchant's Bank in Burlington, and he has obtained from their records the cost of gold on the dates when the money was paid.

If I remember rightly, Linsley's receipts amounted to about \$280,000. Reckoning the premium upon this it amounts to about \$315,000. Then I have added to that the amount we paid Linsley for the surrender of his contract—\$25,000. That was the amount we paid him for the amount he said he had expended up to the time he surrendered the road. Then there is the \$50,000 which Mr. Foster advanced, which we paid him; then there is the government debentures, which were delivered to Linsley; then we have added land damages, and the fencing, depots, bridges, side tracks, the Y at the junction, and the incidental expenses of maintaining organization, charter, &c. Mr. Linsley swore that the iron was not laid half the distance. He also swore that the grading was not completed between St. Alexander and Province line; that none of the depots were built. Now, as regards the work unfinished, I have had to get at that in the best manner I could, and it must be purely estimate at the best. With respect to the grading, I have estimated the number of miles from St. Alexander to the line, and charged the usual rate for laying the track. There are many items I have no doubt left out. The ties which Mr. Linsley testified about I have paid no attention to, as I don't know whether they were paid for or not. My impression is they were not, and I have charged nothing for the spikes, and the chairs are included in Foster's bill of \$50,000. In this way I have, to the best of my ability, and with what data was at hand, arrived at an approximate estimate of the cost of that road, and my opinion is that the statement I present here is less than the actual cost. I think the road exceeded the estimate we made and gave to Mr. Drury, and this statement falls a little short of that estimate—that was estimated at \$750,000; this statement amounts to \$746,881.35—and it would not be a great deal out of the way I think, taking Messrs. Hale and Linsley's testimony. Mr. Hale testified that it could not be built short of \$30,000 per mile, and reckoning it on that basis, it would come to a great deal more than this.

Q. I want to call your attention to one thing. Is there anything charged there for payments of Mr. Linsley's outstanding debts at the time you took the road? A. No, sir. I could not have added that without resting it entirely upon Mr. Linsley's testimony, and as I could find no trace of the amount, I did not add it in the statement. But at one interview I had with Mr. Clark, when his mind was more than usually clear, and I talked with him over half an hour, he said he recollected the fact that we had paid those debts, and he figured it up to something over \$15,000. The \$50,000 supplied by Foster, all the time it matured, we gave him two notes for \$25,000 each. On the maturity of the first note gold was at 140½, and when the second matured it was 133.

Q. The only things estimated in your statement then are the Y, and the laying of the rail? A. Yes, sir, and the sidings. Linsley testified there were no sidings in, I had them accurately measured and find them

to be a mile and three quarters, and I have estimated the sidings at \$20,000 per mile.

Q. That is made up of actual cost; now test it another way. There is \$440,000, the contract price? A. Yes, sir.

Q. What was there not embraced in that contract price? A. The land damages, expenses of organization and the Y. The contract price covered the depots, but they were not built when Linsley surrendered the contract. Then there are the expense of surveys of the original route which are not included in the contract price.

Q. Now what was the average price of gold during that time? A. Sixty-three, according to the bank statement.

Q. (By Mr. Dillingham.) Did that contract price cover the sidings? A. Yes, sir, but they were not completed.

Q. Now, Governor Smith, suppose you take the \$440,000, the original contract price, which would be in gold, and add to it the expenses which were not included in the contract, such as land damages the "Y," etc., what would be the total price, in currency? A. Figuring it on that basis, I make it \$769,599 currency.

Q. In what currency was this M. & Vt. J. Road actually built? A. In American currency. The contract was due in gold, all of it, but the medium used was American currency. That statement shows exactly what was paid in currency and what was paid gold. In paying for anything, in the construction of that road, we had to bring everything to a currency basis,—that is we paid in currency accounts which were payable in gold, and consequently had to pay the difference according to what the premium was.

Q. What was the circulating medium in Canada at that time? A. Mostly silver, sir. The Montreal banks at that time drew in almost their entire circulation. Along the border places American currency would be taken, but it would be reckoned on a gold basis—that is they would accept the currency at so much less than its face value.

Q. Something has been said about the two miles of road that runs from St. Johns out to the Junction of this M. & Vt. Junc. R. R. and S., S. & C. Road, and that, in the division on the 50 per cent. basis, that has been included and you have had the benefit of it. How is that; please state the particulars? A. The benefits the Trust has received in the way of ties, lumber, &c., brought over the M. & Vt. Junc., without charge for transportation, are understood to be a set off against the including of those two miles in the division. This road, in computing the gross receipts of the M. & Vt. Junc., never reckoned anything for supplies drawn over that road brought from the S., S. & C. line. For a time this road had her material, in the way of ties, lumber, &c., from no other source but the S., S. & C. district, which all, of course, came over the M. & Vt. Junc. Road. I called Mr. Merrill's attention to it several times, and I said that even if they did not allow us anything for running the freight over the road, they at least should not charge us for the engines, &c., that run over there to get their own stuff. He said, "this Road is using two miles of the S., S. & C. Road, and one about offsets the other." On this point I disagreed with him. Finally the matter came before Pinkerton and Drury, and they made a computation, and

considered that it was no more than fair that we should offset one matter by the other. The matter was settled in that way, although, had it been settled the other way, we should have been gainers by it. So the matter stands to-day as it was then settled.

Q. Is there any book or books of the Trust that will show the amount of supplies that come over that Road for nothing? A. I don't know whether it can be shown accurately. Mr. Stone and Mr. Merrill went to work and gathered it out as best they could; but no regular account was kept, because the material carried was for the use of their Road. On one occasion they transported a lot of ties from the S. S. & C. district, and over the M. & Vt. Junc. Road, for the Rutland Road, and collected the freight for the whole distance, not allowing anything to the M. & Vt. Junction. Situated as I was, I did not feel in a position to talk to them about such matters, as I should have done had I not been connected with this Trust. My own belief also, is that if an accurate settlement were made upon both sides, we should be gainers.

Q. Will you now state what you can in reference to the nature of the M. & Vt. J. Road—whether it is a hard or easy Road to build, and the general character of the country? A. It is very level Road, but almost its entire length the ground consists of heavy clay, and in preparing for a road upon such a ground a man could not shovel five yards in a day, whereas upon ground like the ground over which the Swanton Branch runs, he could shovel twenty-five yards. In addition to that, there was another feature in the same connection which added to the cost of the road, namely: That in Canada the land owners are required to cut certain main ditches to drain the country, otherwise it would be under water if they did not do so. These canals or ditches are about six feet across and three or four feet deep; they occur once in a certain number of farms. Our Road was so located that it crossed these ditches, except at times when the road ran almost parallel with them. Of course we had to provide for this water, and so arrange as to carry it off, and get it out of the way so as not to be subject to the laws of Canada and the penalties of obstructing these ditches. This in some parts involved the cutting of a canal to carry the water off, which of course increased the cost of construction of the road, and made the road more expensive than one would suppose in riding over the road, which is very level. In sitting down and looking over the engineering difficulties in the construction of a railroad, a great many expenses are found necessary which would not strike the eye of a casual observer in going over it.

There is only one heavy bridge, that is at Pike River, and one across Rock River—but that is an insignificant affair. The Pike River bridge was an expensive one; we could not close it up with an embankment, for reason that the stream, which is a very strong one in the spring, and if we had brought the bridge to the river banks, the road would have been at some time or other washed away and the whole country flooded, so that it was deemed necessary to have a long trestle, which was the only way it could be done, unless we built a covered bridge the whole distance. I should think it was some three hundred feet.

Q. I call your attention to "Exhibit 16^a"—which is a certificate by the first and second mortgage bondholders committee, dated Feb. 3d, 1875, in which they say "The committee have been satisfied, &c., &c.

(*vide Exhibit 16^a*). It was two years before the date of the certificate that the committee speak of, which would be 1873, when they became satisfied. State what there is to that? A. The earnings of the road when it first opened were not enough to begin to pay us interest on the capital invested. In progress of time the earnings of the road began to increase, and in 1872, I think, it was, they got up to \$180,000 per year, which left \$90,000 in division. Mr. Pinkerton took this ground, and said, "You are getting more than you ought to have on that road, and if you get a fair interest that ought to satisfy you." We had a great deal of discussion, some in badinage, some in earnest. I said "suppose we sell that road to the Portland and Ogdensburg R.R., we are not under any obligation to you legally, we put our money at our risk to strengthen your line, you have no control over it and Mr. Clark and I can sell our stock to whom we please." Mr. Pinkerton asked me if I would make a price for that road; I said I would not injure this line by parting with it. Finally he asked me if I should not be willing, if I received a fair interest on our capital, to take it and let them have the road. I said I would take eight per cent, to which Mr. Drury was willing to accede, but Mr. Pinkerton thought it too much, he thought seven per cent should suffice. Finally it was discussed in Boston, and Mr. Chevey, Mr. Pinkerton, Mr. Drury and myself talked it over. We figured up the cost of the road at \$750,000. I said they might have the road at that amount although I thought the road stood us in more than that. I told them I could sell it then for a million dollars (a proposition having been actually made to me for that amount.) Mr. Pinkerton urged that a portion of the cost of the road was in the premium on gold, and he said "are you willing to give us the option of purchasing the road at \$700,000?" I said that is less than the cost, but I will see what Mr. Clark says; when I asked Mr. Clark about the matter, he said for the sake of having everything settled he would be satisfied to let them have the road at that figure. Accordingly I told the committee they might have the road at the \$700,000. The question then arose as to the settlement with us for the amount which was open unsettled. Mr. Pinkerton thought it ought to be seven per cent. I said it should be eight. Mr. Cheney who inclined between the two, said to me, "Governor, you had better call this \$50,000 for 1872 and end it; it is working up a good deal of ill-feeling among the security holders, while I admit, it is not just, yet it is the best for all parties to have it brought to a conclusion." I conferred with Mr. Clark; he said he would leave it to me. At the next interview I said that for the sake of ending all this talk, if they would make it up and pay us the \$90,000 then due for that year, I would start upon the next year at the \$50,000, which would give us \$1000 per year to maintain the organization, and seven per cent upon the amount of the cost of the road. That is why we are now drawing our pay at the rate of \$50,000 per year, they having the right to purchase the road at any time within five years at \$750,000, if they will pay us the interest we lost during the early period of the road.

Mr. Pinkerton has never fully assented to the arrangement, nor has he objected to it.

Q. Was any fault found with the modes of division up to 1872?

A. I don't know whether it was precisely in 1871 or after that the

question about this freight that run over that road free came up; but nobody was dissatisfied about it until that time. In 1871 the Vt. & Canada appointed a committee to settle with us and take the road. We could not make a trade with ourselves and the best thing we could do was to fix an adjustment by which the thing should be worked and do justice to us, who put our money in, and yet do no injustice to the Trust. The Trust made money out of the road; it only cost them for fuel and wear and tear of engines, they could run their sixty miles per hour on that road, and in fact they made up almost all their lost time on that road—they used to run along there at a fearful speed. It did not cost them anything the first year, all the expense they were at was simply the train men and fuel; and yet during the early period we did not get the interest upon the money we had put into the road; it was only with-in the last few years, down to 1873, that it more than paid us interest on the cost.

Q. I want to ask you now something in reference to the Sullivan Road. Mr. Merrill testified that down to 1869 he charged you 87½c per mile for an engine and after that he charged you at 12c per mile run. He said there was no interest at that rate on the investment of the engine. I wish you to state what kind of compensation that is for the use of these engines? A. In making up his statement Mr. Merrill charged for the use of the engine 12c independent of engineer and fireman, &c. This was simply based upon the cost of maintenance of the engine. Our reports for the maintenance of engines will show between five and six cents per mile run for the cost, and including engineer, firemen, oil, waste, &c., including these it is only 10c, perhaps 11c.

I have some reports here which show how this is made up. This one shows the price to be 10½c.

Q. How often are those reports made? A. Once a month. Here is one for March giving the figure at 10½c.

Q. (By Mr. Walker.) Have you got the cost there for the Western division? A. Yes, sir, 8½c.

Q. (By the same). And what upon the Rutland Road? A. 5½. Here is a statement containing the figures for four years. On the Northern Division they are as follows:

1871, 5 ½c.

1872, 8 ½c.

1873, 4 ½c.

1874, 8 ½c.

making an average for the four years of 4½c. The average for the four years upon the Rutland Road is 5 ½c. Mr. Merrill charges us with repairs to locomotives. He includes that. Now that really constitutes rebuilding the engines. That is, the whole cost of the shop, new engines and all are reckoned.

Q. (By the same). Are you sure of that? A. Yes, sir. It is the cost of keeping the engines up in a high state of repair. These repairs ought not to reckon depreciation of the engine, because that involves keeping them up entirely. We had a collision on the road. Two engines came together, and were a perfect wreck. We could not use

them at all. They went into old junk, and were sold. We replaced them by two new engines. There is no depreciation, because the engine is kept up all the time. When Mr. Merrill charges 12c. per mile for use of engine, and then charges engineer, firemen and wipers, oil, &c., it allows a pretty big interest in the course of a year. Still, we had instructed him to so charge, that no one could say we sought to take anything out of the Trust, and Mr. Merrill did so charge.

Q. (By Mr. Fifield). They say you employ a good many lawyers, Governor; have you ever employed any more lawyers than you have believed necessary to the protection of the trust? A. There has been no one employed whom we did not think it necessary to employ. They sometimes charged more than I thought they should charge.

Q. But you have always got them as cheaply as you could? A. Always, sir, but I had to take them at their own valuation of their services, not at mine.

Q. And all these vouchers for legal services were all for services legitimate for the Trust and were so paid for? A. I presume they were, sir.

Q. Now in reference to the hotels in which the Trust participated, what about those? A. We have invested in the Welden Hotel, Waterbury Hotel and Mount Mansfield Hotel. They are the only ones we had stock in so far as I remember. It has always been customary for railroads to subscribe to those establishments on the line of their road. The Mount Mansfield Hotel has been of great benefit to the road and has been the means of inducing considerable passenger traffic to that locality and so with this hotel at Waterbury, we felt it was necessary to have a hotel there, for the accommodation of the public who travel over our road. We did not want to tax private citizens too much, and our people subscribed as far as they were able to, as the road was to receive a benefit from the hotel in the way of bringing travellers it was thought only fair that they should do so. If we stopped a train over night and there was no good hotel at the place where we stopped over night, it was a constant occasion for fault finding and cursing, because we compelled people to stop at places where they was no accommodation.

With regard to the hotel here at St. Albans, at the time of the excursion of the bondholders the subject was submitted to them—I think there were three or four hundred bondholders here at that time, and they all desired it, and some of them subscribed because it was to help the road. I remember Judge Hepburn subscribed, Mr. Andrews subscribed and a lot of others whose names I don't remember. It was suggested that the road should make a subscription and we did so. I don't remember now whether it was Mr. Merrill or Mr. Brainerd who made it, but it was to the amount of \$8500, that was for the first hotel here, which proved to be inadequate to meet the wants, and it was thought advisable to have a more convenient place. We had a lot of summer travel here to these springs at Sheldon, people could rest here over night and go to the springs next day. When the new hotel was started Mr. Brainerd and Mr. Taylor looked over the matter and decided to make a subscription of \$20,000—and it was made by Mr. Taylor, after consultation

with his friends in Philadelphia and Boston. The result was that they made up their minds it was best to subscribe that amount of money.

Q. What do you say to their having been a benefit to the Trust to the amount of the subscription? A. A great many times more, sir. For a time this place was a point of great attraction for summer travel, which would not have been the case, had there been no accommodation for the travelers.

Q. You say it is customary for other roads to subscribe to hotels on their line of road,—can you name a few? A. The Passumpsic, I think do so; the Boston & Lowell Road contributed largely and built almost entirely themselves a house at W—— Lake. The B. C. & M. Road nearly own the Fabyan House and the Pemigewasset House. Mr. Thatcher and Mr. Chapin told me that the Rutland Road contributed largely to the Lake House at Burlington, and I understand they contributed towards the Bardwell House, but that I am not certain about. The Baltimore & Ohio R.R. have made such subscriptions, and other roads have done so. They do it at places along their roads to make them attractive to travelers.

Q. How about the Mount Washington R. R.? A. That road, we were invited in common with other roads that pointed in that direction to meet at the White Mountains and see what was best to be done. We were asked to help contribute to that road, as were the other roads invited. We had a conference, the result of which was that we agreed to help the thing through, and finally this Road subscribed \$5000 in the stock of that Road. The advantage derived by this Road from that investment consisted in the traffic it drew over our Road from Montreal and other places for the White Mountains.

Q. Agricultural Societies you make contributions to in order to promote travel on your Road, do you not? A. Yes, sir; it is customary to do it and always has been.

Q. I now call your attention to vouchers 4671-2-3, January 4th, 1863, signed by Brainerd and Clark and yourself, for compensation for signing bonds, etc., in 1855, (*vide page 150.*) Will you please to explain what there is to that matter? A. At the time the Vermont & Canada was appointed Receivers of the road, Judge Poland (then Chancellor) ordered them to give bond to the amount of \$100,000. They were required to do it with sureties. The Vermont & Canada signed the bond as did my father, Mr. Clark and Mr. Brainerd. I think you will find another voucher of the same character for like services. That matter came up before the Masters and they allowed one per cent. for the signing of the bond. These vouchers are for their relative proportions.

Q. I now wish you to explain in regard to the salary of the auditing committee? A. They fixed the amount first at \$700 per year.

Q. Did the bondholders fix that salary at their annual meetings? A. I don't know, sir. I know they made out a bill and approved it and drew the money. I thought the compensation reasonable. It was afterwards reduced to \$500.

Judge Poland here read an extract from the records of the first mortgage bondholders (exhibit 87,) purporting to be a vote passed at the bondholders meeting, in Boston, June 19th, 1885, as follows :—

“The Chairman brought up the question of compensation for the committee for the past year, and the same was fixed, on account of the extra services the first year, at \$750 per annum.”

Q. (By Mr. Fifield.) I show you voucher No. 1271, exhibit 38, (*vide page 202,*) for \$4000 paid to Mr. Dexter which appears to be for services as President, Vermont Central, and approved by the auditing committee; please explain in reference to that? A. Mr. Dexter brought in a claim, I think to the amount of some eight or nine thousand dollars for services and expenses in attending to the interests of the 2d mortgages, and as President, Vermont Central. We declined to allow it, and it went along for some time. Finally it went to the committee, and I think Mr. Pinkerton and Mr. Drury and Mr. Cheney agreed to leave it to some parties in Boston and this was the amount of their recommendation, and when it was paid Pinkerton and Drury endorsed it. The amount paid to Dexter was \$4000.

Q. I want to ask you generally as to the expenses of keeping up the Vermont Central organization; what the necessity of it is, and what protection it is to the Trust? A. It is the foundation of the whole Trust; the maintenance of the franchise of the Vermont Central is the ground work and basis of the whole structure, and if that should be permitted to go down there would be nothing to stand on. The decree recognizes this, and instructs us in the disposition of the funds, to pay first the expenses of the Vermont & Canada, secondly, the first mortgage, then the second mortgage, and out of the balance to pay the expenses of the organization.

Q. What do you say as to the reasonableness of the payments to the officers of that Company? A. The prices were very low, I think.

Q. The officers are designed to be simply nominal, are they not? A. Well, there have been more than nominal duties to perform. There could not be a transfer of stock of the Vt. & Canada made without the signature of the Treasurer.

Q. That extension of the consolidated bonds had to be endorsed by the Treasurer, had it not? A. Yes, sir. The transfer of Vt. & Canada stock had always to be signed by the Treasurer of the Vt. Central R.R., and it was always done until recently. Mr. Brooks made the change and dispensed with the signature of the Treasurer.

Q. On page 251 (of this evidence) is an account against the Pullman Company of \$21,783.97? A. When we made a contract with Pullman by which we sold him the cars and gave him our line to run on, we were to build the cars here at our shop for him, we built quite a number of sleeping and parlor cars. He was to take the two parlor cars we had, and intended to run them between Boston and Saratoga, but the cars were found to be too long for the Saratoga Road depots and for the sharp curves on that road. Pullman wanted us to build them over and we built them over. According to the terms of the contract Pullman was to pay us as often as we rendered our account, and at the end of the time when we got through building there was this account left upon

the books. I think it was about \$21,000 outstanding. Pullman raised a question as to his liability under the contract, to pay for the alteration of these parlor cars of ours; we had to take a section out of the middle of each car and put the cars together again, which involved a good deal of work. Mr. Pullman claimed that we ought to stand that expense, and so the matter was left unadjusted. Mr. Pullman has since paid something on that account and it now stands, I believe, at \$10,000 due from Pullman.

Q. Please explain in regard to the loan of \$6,000 to the Woodstock Railroad mentioned on page 253? A. Governor Washburn, of the Woodstock Railroad, applied to me for some help to build the road, and I think we let him have \$10,000, for which they gave their note, and paid it when it became due. After that they made another application for a further loan of \$6,000. They could not collect in their assessments rapidly enough, and required us to send the money right down, as they wanted to allay a strike on the road by paying the men. We sent down \$6,000, and a note by express. When the note came back it was only signed by the Woodstock Railroad, and not endorsed privately, as was promised, and as the former one had been. I instructed our Treasurer to return it at once, to be properly endorsed by Mr. Billings. In the interim the contractors attached the property. The Woodstock Railroad had our money, and we had their note, but without the endorsement of Mr. Billings, who declined to endorse it after the road failed. They do not deny their liability now, and are willing to have the matter adjusted, but they have not yet been in a position to pay the amount.

Q. I call your attention to page 278 of the S., S. & C. Ledger, account against Smith & Clark. Is not that wrongly named? Should it not have been in account with the trustees and managers? A. Yes, sir. It should have been an account against the trustees and receivers of V. C. R. R. That is the account for wood, ties, lumber, &c., while we were in possession as lessees and prior to the purchase of the road. It was a mistake of Mr. Fourdrivier in putting our names there at all. He should have put "Receivers and Managers Vt. C. R. R." The account should have stood against them instead of against Mr. Clark and myself personally.

Q. I call your attention to the S., S. & C. ledger, page 270, Foster's account shown in exhibit 29; please explain that balance? A. I do not understand this account, I don't know anything about it.

Q. In regard to the Sullivan R. R.—should that road bear any portion of the office expenses of this road? A. I don't know why they should, sir. I don't know that this road ever had any bother or trouble with that road, any further than that Mr. Merrill was appointed superintendent and paid a salary for that office by the Sullivan Road, which lessened his salary on this road. He was the only officer that had anything to do with the Sullivan Road in reality. This road had the use of the money of the Sullivan Road for six months—settlements being made semi-annually—and the only duty the treasurer had to do was to enter a larger sum of money—and such trifling things as that were more than paid for by the use of the money for six months. Mr. Merrill was really the only one connected with the Sullivan Road and if

he had not been paid \$1000 yearly by that road his salary would have been increased by that amount on this road.

Q. How much paper have you endorsed for this Trust? A. My brother, Mr. Joseph Clark and I have endorsed considerably for the Trust. Up to the time of our failure I think we endorsed all their paper. At the time our troubles came I think we had over a million dollars in private endorsement. Since I came into the Trust every dollar raised has been on the strength of the personal endorsements of the Receivers and Managers; we have stood in unshrinkingly to protect the Trust. The total amount of paper endorsed by us is something over \$6,000,000.

Q. I call your attention to Exhibit 36a, which purports to be endorsements by Mr. Clark, Mr. W. C. Smith and yourself, and want to know what the usual charge is for endorsements of that kind? A. In the city it varies from $2\frac{1}{2}$ per cent. to 5 per cent.

Q. What was allowed by the former Masters for that service here? A. I think it was one per cent. Of course we were liable at any time, with such an amount of paper out, to be ruined. When our disaster came in 1872, the property was all attached and we were liable then to have been put into bankruptcy.

Q. Please state, in regard to the question of compensation, how much of your time you have spent in the business of this Trust; and in the same connection state the allowances made by other roads to their presidents? A. From the time I became connected with the Trust down to 1870 I devoted nearly all my time to it. Of course I had the duties of the State upon my hands whilst I held my official position as Governor, but that was not at the expense of my services connected with the Trust; that is, I did not neglect my duties here. I undertook to perform both the duties and came nearly breaking myself down in consequence.

In 1870, when the Northern Pacific R. R. was organized, and I became President, I had occasionally to go to Washington, New York, or Boston, but I generally managed to attend to the business of the Trust also upon such occasions, thus performing both duties at the same time.

From 1870 to 1872 I was in New York a good deal, but during the time I was absent I was in almost constant communication with Mr. Merrill, and was home as often as important matters required me to be here. Most of our meetings were held in Boston, and I would go from New York to Boston perhaps every week. Our Treasurer was in Boston, and the Managers generally were there.

Q. And now about the salaries paid by other roads to their presidents. What is the usage or custom in this respect?

[Question objected to by Mr. Walker, on the ground that it does not appear that there is any usage.]

Q. Did the Masters fix your salary in 1861 at \$4,500? A. Yes, sir.

Q. Has there been any relative change in the payments to the presidents of railroads since that time?

Q. What is the change? A. I know what some of the presidents of railroads receive for their services.

Q. What does the President of the Old Colony R. R. receive?
A. Ten thousand dollars per annum. Mr. Stearns is the President.

Q. Is he not also President of the Northern Road? A. Yes, sir. He gets \$5,000 on that road.

Q. What is the length of that road—the Northern? A. 69 miles.

Q. And the Old Colony Road? A. Is 200 miles.

Q. (By Mr. Walker). Do you testify from what you have been told by the President of those roads? A. I won't say positively that Mr. Stearns personally told me. I may have heard it from somebody else.

Mr. Stark, Manager of the Lowell Road, receives \$10,000 per year. The President of the Eastern Road gets \$20,000 per year; Mr. Brydges, of the Grand Trunk Railway, received \$25,000 per year.

Mr. Worthington C. Smith recalled by Mr. FIFIELD.

Q. I call your attention to Exhibit 37a, statement of your account of expenses and services, \$2,053.85. Is that a correct account of your expenses? A. Yes, sir; and cash paid out.

Gov. Smith recalled by Mr. WILLARD.

Q. You have mentioned occasionally in your testimony as to the action of the directors of the Vt. & Canada, and I understand you to say that those directors authorized the purchase of the S., S. & C. Road; do you mean to say that they did it by any official action; that is, was it a matter of any vote of the directors? A. So I understood, sir. It is embodied in that vote of 1861.

Q. Did you simply mean by your statement that it was that action you referred to? A. Yes, sir. I don't know that there was any specific action further than that resolution to purchase the Montreal & Champlain Road, and failing that, to negotiate for the S., S. & C. Road.

Q. And who had this talk with you that you spoke of? A. Mr. Peck, Mr. Robinson and Mr. Blake I met mostly. Sometimes I met the whole Board.

Q. How many did the Board consist of at that time? A. Seven.

Q. Did you ever have any conversation with them at any meeting of directors? A. Yes, sir; I was invited in frequently. They always had a quorum, if not a full Board, and these matters were discussed. The policy laid down in that vote was understood by the Vt. & Canada to indicate the course best to be taken.

Q. Had Peck been attorney for the Trust prior to being President of the Vt. & Canada? A. Yes, sir.

Q. Was he attorney for the Trust while one of the directors of the Vt. & Canada? A. No, sir. He resigned that position just previous to his election as President.

Q. Who took his place as attorneys of the Trust at that time? A. Mr. Tracy and Mr. Underwood.

Q. Were not Peck & Colby connected at that time as attorneys for the Trust? A. No, sir; unless it was a private arrangement between themselves.

Q. Was not the firm acting in Washington county as attorneys for you? A. Well, I presume not, in their partnership capacity.

Q. I mean after Peck was elected President of the Vt. & Canada, were not he and Colby acting for you as attorneys in Washington county? A. I cannot say that they ever appeared for us. I know Peck made his formal resignation when Mr. Robinson invited him to take the presidency.

Q. (By Mr. Fifield). Did Peck & Colby keep right along? A. I don't know as to that.

Q. In your remarks about the directors of the Vt. & Canada, do you mean to say that the directors spoke to you individually at times? A. Well, individually, and as the Board.

Q. What time was your brother elected President of the Vt. & C.? A. Immediately after Peck's death; in 1867.

Q. And he remained President until what time? A. 1872, I think, sir. I believe he went out as President in October, 1872. Mr. Cheney, Judge Porter and my brother, however, remained in the Board for about a year after. Mr. Brooks was elected President that year.

Q. Has there been any assent of the Directors since that time, October, 1872, to any of these measures of which you have been speaking? A. No, sir, I think not.

Q. How is the local business upon the M. & Vt. J. Road compared with the local business along any equal number of miles along the Vt. Central and Vt. & Canada? A. Taking out the principal stations on the Vt. Central and Vt. and Canada, like St. Albans, Burlington, Montpelier and Waterbury, I should think the local business on that road would compare favorably with these roads. There is a good deal of business at Stanbridge, De Riviere and St. Armand. But it is hardly fair to make a comparison between the two roads because there are no stations on the M. & Vt. J. to compare at all favorably with the large stations on this road.

Q. I want you to state, how, in your judgment, it averages with the local business on the Vt. Central? A. It is a good deal less.

Q. How much less in proportion to the number of miles? A. It is difficult to make a comparison.

Q. Is it half as much? A. Do you mean per mile.

Q. Yes? A. No, sir; I should think not.

Q. Is it a quarter? A. I cannot tell; if you let me pick out twenty-two miles of road upon the Central and compare with the M. & Vt. J., I can make the comparison, but if you want me to take the 167 miles of this road, with its immense centres of business, and compare that with the M. & Vt. J., I cannot do it; the business from Burlington alone would be more than the whole of the M. & Vt. J. R.R. If I take from Waterbury to Randolph, which is 26 miles, or say from Essex Junction to Montpelier, either of those, and the M. & Vt. J. would shew very favorably in comparison.

Q. I would like to have you state about how much you think the local business would be on that road in comparison with this road; if it would be more than a quarter? A. I should not think it would if you reckon the large stations on this road.

Q. How about through business—how would that compare; in the same manner? A. All through business that comes over that road comes over the whole length of the Central Road. I should think it would stand about two thirds of the through business that comes over our road.

Q. How would it be in 1872 or '73—taking the year together? A. I should think more than half. You must bear in mind that was a winter road while the Ogdensburg Road was closed, so that taking the year together there would be more through business over that road than over the Ogdensburg Road; a good deal more.

Q. You say it would be more than one half; would it not be three quarters, taking the whole year together? A. I should think it would.

Q. Has not your western freight gone by that way and via the G. T. R.? A. The all rail business has, sir.

Q. Were your rates the same whether the freight went via St. Johns or via Ogdensburg? A. I think our percentage was a little more by way of St. Johns. We had to divide half and half with the boats, via Ogdensburg, on the through rate to Chicago. Our proportion in division by way of the G. T. R. and Montreal gave the Vt. Central Road more in division than the rate by way of Ogdensburg.

Q. Your line, what you call the Central Line, ends at St. Johns does it not? A. Yes, sir.

Q. Now with freight coming from Chicago and stopping at St. Albans, would you get the proportion that you would if it went to points on the lower roads? A. Yes, sir, we should get the whole of it.

Q. And in the division between yourselves and the Montreal & Vt. Junc. Road, would that road get more than its mileage? A. No, sir.

Q. What is the mileage from Province Line to White River Junc. in your computation with the other roads? A. 137 miles, I think.

Q. Do you know what it is in your computation from St. Johns to White River Junc.; I ask you because Mr. Hobart testifies it to be 163 miles? A. That is right, 163 miles.

Q. It has been said in the testimony that the mileage of the Montreal & Vt. Junc. is computed at 35 miles. A. I think on that an error has been made. The proportion is 137 miles, giving 26 miles for the Montreal & Vt. Junc. and making 163 miles.

Q. Then, what has been meant by the statement that there was an extra mileage allowed to the M. & Vt. Junc. because their business had to be done partly in gold? A. With regard to that, I was present when that concession was made, at a Line meeting, and the way it came up was, the G. T. R. demanded from us a specific from St. Johns to Montreal, in gold, and we claimed that our proportion on the Canada Road should also be paid in gold. Mr. Harris and Capt. Murdock demurred to this on account of the uncertainty of the price of gold. Finally the matter was referred to a committee to see what should be done, and adjusted on a mileage basis, allowing something extra to compensate, instead of paying the proportion in gold.

Q. It has been said several times, and I have supposed it was so understood, that the mileage of that road was always reckoned at 35 miles, in the division of rates? A. I don't know how that is, exactly.

Q. I call your attention to the estimate you have made up of the cost of operating the M. & Vt. Junc. R. R. In connection with that you said that this road had its wood, ties and lumber brought over that road for nothing, but that there was charged to the operating expenses of that road the cost of engine, &c.; has there been any account kept in your books to your knowledge showing the operating expenses of that road? A. No, sir, not in full.

Q. Then how can you make that statement in respect to the cost of the engine, &c., being charged to the operating expenses? A. I got that from the records in Mr. Foss' office; he keeps an account of the number of miles the engines run, and in computing this, Mr. Merrill did so from that source.

If there is such a book in Mr. Foss' office, I should like to have it brought in after dinner.

Q. Have you examined this statement in respect to instituting a comparison with the cost of operating the rest of your road? A. Yes, sir,—and I find the cost of operating the M. & Vt. Junc. Road very much less.

Q. You make here for the last thirteen months, the cost of operating that road to be \$57,000—a trifle over \$2,000 per mile. Is there any part of your road that you could operate for twice that amount of money. A. I can pick out certain portions of our Line that can be operated as cheaply as that can. The difficulty lies here—we could haul with one engine 36 cars from St. Johns to Swanton Junction, now the most we can haul from there is 20 cars; now you can judge the difference in the cost; 36 cars can be brought from St. Johns to Swanton Junction, but we have to send another engine to the Junction to bring in part of those cars. Now take the consumption of fuel to run a passenger train, oftentimes, consisting of three sleepers and about three or five day coaches, baggage car, mail car and express car—making eight or nine cars; the consumption of fuel in hauling that train from St. Johns to the Junction is very much less than to haul it over this road.

Q. In making up this estimate, did you not figure the cost of engine service, wood, and various items of that kind, that you were obliged to estimate, at the same rate that you figure them over the Sullivan and Central Roads, where you figured it in that way at all? A. Yes, sir; but that was against us.

Q. Then your estimate here of operating that road by the mile, ought to make it the same as estimating the Central by the mile? A. No, sir, I don't think it would.

Q. In this estimate, I presume you have reckoned the expense for freight, passengers, car service, engine, &c., the same as you would reckon similar items upon this road? A. Yes, sir. Freight expense, for instance, would include conductors, brakemen, &c. We did not reckon the engineers on the same basis as those who run to W. R. Junc., because it is not equal; engineers do not get so much per month from here to St. Johns as from here to the Junction.

Q. Then you mean to say that as to the engineer you charge in this estimate the same rate for him that you charge for him between here and Provinces Line? A. No, sir; I charge what is actually paid him; I charge him in accordance with the service from here to St. Johns.

Q. Then you did not make any deduction so far as this statement is concerned for the expense of passenger and freight car service, by reason of its being a level road? A. No, sir, we charged what we actually paid.

Q. You charge the same per mile for the engine? A. Yes, sir, and I suppose we do also for the wood.

Q. Then do you know any reason, according to that basis, why the cost of operating that road per mile should not be the same as the cost of operating the Sullivan Road, for instance. Have you not made up the cost of operating this road the same as you made up the cost of operating the Sullivan R.R.? A. No, sir. I will explain to you by the statement itself.

Witness here explained to Counsel, from the statement.

By MR. WALKER.

Q. I understood you to say, yesterday, that no short road could live and prorate in a through rate. The M. & Vt. J. Road prorates and lives does it not, according to the figures here? A. What I meant was that if it was an independent organization and run its road independent, it could not live and prorate.

Recess until 2 p. m.

AFTERNOON SESSION.

Court assembled at 2 p. m.

Voucher No. 4402 referred to on page 238 is explained as follows: Mr. Williams, Treasurer, telegraphed to Boston for \$1000 (gold) which was sent; the voucher which was the receipt for it is dated Aug. 12th, 1869, and is signed, received payment, L. Millis, examined by the Auditor and approved by G. Merrill, Supt.

Mr. Jed P. Clark, duly sworn.

Direct examination, by Mr. FIFIELD.

Q. You are son of Mr. Joseph Clark of Milton? A. Yes, sir.

Q. Whether you have been endeavoring to make up a statement of the cost of construction of the Montreal & Vt. Junc. R. R.? A. I have, sir.

Q. Have you made enquiries of your father in respect to any books or papers that would show anything in respect to the cost of that construction? A. I have, sir.

Q. Have you been able to find anything at Milton except the vouchers of Mr. Linsley for cash? A. Those are the only ones I could find.

Q. What is the state of your father's health? A. He is in a very poor condition, has been very unwell for a long time, two or three years, and for more than a year he has been very feeble and unable to do any business.

Q. How much aid could you get from him upon this subject? A. Not very much, sir, all I can get is from talking with him a little at a time. He is unable and has been for some time to sustain a conversation except for a few minutes at a time.

Q. I call your attention to Exhibit 79, cost of construction of Montreal & Vt. Junc. Road, was that made up by you? A. Yes, sir.

Q. Does that state as near as you can get it, the actual cost of that road? A. It is as near as I could make it up from the vouchers which I found and the conversation with my father and estimates.

Q. Well, sir, what are your estimates? A. My estimates were with reference to the land damages, fencing, sidings, bridges, which I got from the construction account.

Q. Is the Y estimated? A. No, sir. That is all.

Q. I see you have charged in that statement the premium on gold at certain times, will you please state what means you have taken to ascertain the price of gold on those respective dates? A. I obtained that information from the gold book used by the banks giving the daily price of gold. I obtained the price from 1860 to 1870 or '71.

Q. What was the average price of gold during the period of this construction? A. I think it was 63, sir.

Cross-examined by MR. WALKER.

Q. Did Gov. Smith participate in the preparation of this paper? A. He assisted me with reference to the estimates.

Q. Did you have any knowledge of these matters at the time the transaction occurred? A. I did not.

Q. What books did you find at your father's, in reference to this business? A. I did not find any.

Q. Did you find a book kept by Mr. Kimball, clerk to Mr. Linsley? A. No, sir. He has no such book in his possession.

Q. You say the vouchers you have produced are the only papers he has in reference to this business? A. All I can find.

Q. You found no books whatever? A. No, sir.

Q. Did you find any vouchers in his possession in relation to the construction of the Swanton branch of which your father was one of the construction agents? A. I did not, sir.

Q. Or any papers in reference to settlements with Barnard, the contractor, of that branch? A. No, sir. I think I found one paper—that was the contract.

Q. Did you find any papers in reference to the settlement made by the construction agents, Mr. Clark and Mr. Smith, with the Vermont and Canada R. R., or with the Trust? A. I did not, sir.

Q. Do you know how much is included in this account as interest ?

A. I did not, sir. I did not figure it up separately.

Q. The interest paid stands upon each item of the account, does it not ? A. Yes, sir.

Q. To what time ? A. I think to January, 1866, from the date of the receipts.

Q. Did you cast any interest there except on monies represented by the receipts ? A. No, sir.

Q. Here is an item: April 6, 1866, two notes paid to D. C. Linsley (gold), \$50,000 ? A. That is an error ; it should be paid to A. B. Foster.

Q. Shall I correct the Exhibit in that respect ? A. Yes ; if you please sir.

[Statement corrected accordingly by Mr. Walker.]

Q. What knowledge have you that that payment of \$50,000, which was made to Mr. Foster for his interest in the M. & Vt. Junction, was made in gold ? A. I have that from Mr. Joseph Clark.

Q. You give that from Mr. Clark's recollection ? A. Yes, sir.

Q. I call your attention to Exhibit 5, which is a copy of an agreement between Mr. Foster and Messrs. Smith & Clark in reference to the purchase of the S., S. & C. Road, and his interest in the M. & Vt. Junction Road, and which has reference also to those ^{notes} ~~notes~~. At what time did you take the value of gold which you carried out as upon those notes ? A. I took it at the date of payment, sir.

Q. The next item is an item to construction account, \$36,846.38. The item on Exhibit 19, of the earnings of the M. & Vt. Junction Road, of the one-half gross earnings received by Clark & Smith, shows the construction account \$36,846.38. Is that the same item ? A. I think it is, sir.

Q. That is the item, is it not, for rent for seven years, from 1866 to 1872 ? A. Yes, sir.

Q. In your estimate of the construction of the M. & Vt. Junction I see you have calculated gold upon that item at 170, to the amount of \$16,052.19. Why did you do that ? A. I think that was the price of gold at the time.

Q. But that was the amount of the construction account as arranged by the Trust in their settlements with Clark and Smith in currency was it not ? A. I suppose so.

Q. And 170 could hardly be the average price of gold from 1866 to 1872. You have also computed interest to the amount of \$5,554.41 ; to what time did you compute such interest ? A. The same time as the others.

Q. That is a mistake is it not, because this item did not accrue, any part of it, until long after that period ; is not that a mistake ? A. Yes, sir ; that must be an error.

Q. The next item is government debentures in gold, \$32,338.73 ; what do you understand that to represent ? A. Canada debentures. I don't know that I can give you the character of them. I understand them to be debentures issued by the government or municipalities.

Q. For the use of the various towns upon the line? A. I suppose so, but I don't know about that.

Q. Do you know whether these are the so-called debentures of the road; subscriptions of the towns to stock? A. They were, sir.

Q. And were issued by the towns and their value went into the construction account of the road? A. That is my understanding of it.

Q. Do you know what was the total amount of the towns' subscription? A. I do not.

Q. I now call your attention to the vouchers which you have put in and which constitute the second and third items of this statement,

"ST. ALBANS, July 13th, 1863.

"Received of Joseph Clark and J. Gregory Smith, Managing Directors, M. & Vt. J. R. R., \$50,000, in municipal bonds at par, on account of purchase of materials for construction of said railway as per contract.

"D. C. LINSLEY."

The second one is for \$17,000, and reads:—

"ST. ALBANS, July 22, 1863.

"Received of Joseph Clark and J. Gregory Smith, Managing Directors, M. & Vt. J. R. R., \$17,000 in municipal bonds at par, on account of contract for construction of said road.

"D. C. LINSLEY."

Whether or not you understood that these bonds were at that time turned over to Linsley to be used in raising money for the construction of the road? A. I cannot tell you, sir.

Q. From what source did you obtain the information by which you made up this item, or the subsequent part of your account of government debentures? A. From Joseph Clark and Gov. Smith.

Q. Do you understand it to be a payment made by them? A. Yes, sir.

Q. And a payment made by them in redeeming from hypothecation these government debentures that had been pledged by Mr. Linsley? A. I understand that they paid it.

Q. And obtained possession of the debentures? A. Yes, sir.

Q. Are you able to explain what this item of government debentures, \$32,000, gold, refers to? A. I am not, sir.

Q. The next item here is Land Damages, amounting to (reckoning the gold at 170) \$28,597 40. From what source did you obtain your information as to that item? A. From conversation with Joseph Clark and Gov. Smith.

Q. Did they have any vouchers upon that subject? A. They did not, sir; it is only an estimate.

Q. I notice in the estimate given to Mr. Drury the item, "right of way," put in at \$22,688 80. There is also an item of interest on that same account of \$4,003 63; from what time to what time is that computed? A. That is computed to the same date as the other, I think—January, 1866. I cannot tell from what time.

Q. Can you tell from what time interest is computed on any of these items, after the payment of the notes deposited? A. I cannot.

Q. Can you tell in what way you fixed the time upon which the interest should be taken upon any of these items? A. Not unless I got it from an average.

Q. At what rate are these interests? A. Seven per cent.

Q. The next item is fencing, amounting (with gold at 170), and interest, to \$36,358 66; from what source did you obtain that? A. From estimate.

Q. Made by whom? A. By myself, and Joseph Clark, as far as he was able to give me any information. We did it by taking the distance.

Q. And it amounts to \$1,500 per mile for fencing? A. I think about 45 cents per rod; that is the amount I made it, figuring it over—that is my recollection.

Q. What is the item of bridges on this paper, amounting, with gold premium and interest, to \$7,443 86? A. That is for bridges built by them after Linsley gave up the contract.

Q. Then there were the repairs on the bridge which had been built by him previously? A. Yes, sir.

Q. At what time was gold 170, Mr. Clark? A. I cannot now tell the date.

Q. Was it that price subsequent to July, 1865? A. I think it was, but I am not positive.

Q. What is included in this item at the bottom of the statement—\$37,000—amount expended to build the road after Mr. Linsley surrendered? A. That is an estimate.

Q. Does it include anything for fencing? A. No, sir.

Q. Sidings, bridges, or depots? A. No, sir, neither are included.

Q. What is there in it, then? A. Some of those items mentioned in the statement cost more than was actually put down for them.

Q. And you put that amount in to correct this mistake? A. Yes, sir.

Q. Whether or not this account includes the \$50,000 advanced by the Northern R. R.? A. No, sir, I think not.

Q. Can you tell whether the monies paid by Linsley are embraced in it or not? A. No, sir.

Q. And you are satisfied that these receipts show what money Mr. Linsley had? A. Yes, sir, I think they do.

Q. I observe that many of these vouchers are in the form of receipts by Mr. Linsley, from Gyles Merrill for instance:

“ST. ALBANS, Oct. 26, 1864.

Received of G. Merrill, \$1000 on account, &c.

D. C. LINSLEY.”

Have you any knowledge as to the source from which Mr. Merrill obtained the money? A. I have not, sir.

Q. Here is another:

“July 27, 1863.

Received of Joseph Clark and J. Gregory Smith \$5000, draft on Trustees (U. S. currency) on account of contract for construction of Montreal & Vt. Junc. Road.”

Have you any knowledge of the source from which that money was obtained and the use made of it? A. I have not.

C. Will you take this statement, "Exhibit 79, and from it ascertain and furnish the amount of items of interest? A. Yes, sir.

Gov. Smith re-called by Mr. WILLARD.

Q. Has there been since July, 1873, any account kept of the operating expenses of the Montreal & Vt. Junc. Road? A. I cannot tell.

C. Who has operated the road since then? A. The Central Vt., but I do not know whether the account has been kept or not. My attention has not been called to it.

Q. How has the C. V. R. R. operated it since then? A. My impression is that that was settled by the Executive Committee, but I was not present the whole of the time that question was under discussion.

Q. What has been paid to the Trust for the year ending July 1st, 1873, for operating that road. A. I cannot tell, I have not looked to see.

Q. Has there been anything paid over by the Trust to the C. V. R. R. as earnings of that road for that time? A. I don't know. The money has been loaned to the Receivership.

Q. That is the accounts have not been made up? A. They have not been made up by the year.

Q. I want to get the accounts made up for the next year commencing July, 1873, of the earnings and expenses of that road, and if they are made up I should like to have them furnished? A. I will ascertain and see into the matter.

By MR. WALKER.

Q. Can you explain the meaning of the item Govt. Debentures, \$62,942.46 upon this Exhibit 79? A. I cannot do it, without going through the vouchers to see.

Q. Can you state what is represented by that item? A. They are the debentures received from the municipalities who subscribed for the stock.

Q. Was there not \$67,000 of them? A. Yes, sir.

Q. Who owns those Debentures at the present time? A. I do.

Q. Do these payments you made from time to time to Linsley include the \$50,000 borrowed from the Northern Road? A. I have no means of knowing. Mr. Merrill it seems paid a good many of the vouchers. You will see in there one draft of Mr. Merrill for monies belonging to the Sullivan R. R., \$29,000. I don't know whether the money paid by Mr. Merrill was paid out of Sullivan Road moneys in his hands, or whether it includes that money borrowed from the Northern Road. I should presume, however, that the \$50,000 borrowed from the Northern Road does appear in the aggregate of the vouchers signed by Linsley. I don't know for certain.

Q. In reference to Exhibit 30^a, which you have introduced as an approximate detail of the expenses of the M. & V. J. R. R., I understood you to say that the road account, which is the first item, is actual, and I so understand it from Mr. Coote, who has been through the books to test the matter.

I call your attention to M. Vt. Junction Ledger, page 54, to the item under road account, for the six months ending December, 1870, which appears to be \$29,478.70 on this ledger, whilst in your statement it seems to be \$9,478.70. I call your attention also to one of the journal entries composing that sum, stated in the ledger entry as follows:

SUNDRIES TO TRUSTEES AND MANAGERS.

Road account, bill of rails, August 11, 1870.....	\$17,994.77
Road account, bill of rails, September 22, 1870.....	1,121.54
Total.....	\$19,216.31

and ask you if those expenses appear in the detail of expenses which you have submitted? A. I don't know what is embraced. I have not gone through the bills.

Q. Can you explain why the account in the ledger should be \$20,000 more than you have stated it? A. It is possible that they have not included iron. I do not know what constitutes the road repairs. They may have taken the labor upon the road, and it is possible the iron may be left out.

Q. Then this statement, in your opinion, does not include new iron purchased for that road? A. I should think that item did not, sir. The statement I presented yesterday did not profess to give the accurate expenses of operating the road. I don't think that extra amount represents the cost of operating the road.

Q. I call your attention to an item on page 63 of the same ledger, entitled "Bridges," showing that the trustees and managers paid for the six months ending November, 1870, \$6,434.58 for bridges upon that road; some of these items being, as appears on the journal, page 205, Pike River Bridge (it may be iron, labor, &c.), \$2,585.13, and ask you if there is any account of bridges upon the statement you have presented? A. That was charged to us in the \$36,000, sir; so I understand from Mr. Coote.

Q. I do not think it is so? A. I understand it is included in the \$36,000, sir.

Q. Well, there is no account of bridges at all in your statement? A. No, sir; there should not be according to the theory upon which this thing has proceeded.

Q. You are of opinion that repairs of bridges are included in this construction account of \$36,000? A. I so understand it, sir.

[Counsel for bondholders state that they do not so understand the account.]

Q. Whether these items of general expense include anything on behalf of office expenses. Superintendent, &c. at St. Albans? A. I don't know; all the items embraced in it are put down there.

Q. From what source did you obtain this item "Engines." A. From the number of miles run as kept in Mr. Foss' shop.

Q. On what basis was this computation made for this statement? A. I think I stated this morning it was 12 cts. per mile; Mr. Childs suggested to me that a portion of it in the early part, was 8 1/2.

Q. I notice that the item of "wood" is exactly the same all the way through, as the item of "engines"; did you arrive at that in the same way?
A. I presume it was.

Q. What is the total amount of miles run by wood trains during that period? A. 4,689, and gravel trains 7,989.

Q. Were you aware that in running gravel trains during the ballasting of the road in the early part of its operation, you were charged with the expense of the hands upon those trains and nothing for the use of engines?
A. I was not aware of the fact.

Q. Where in this statement do you understand the expenses of the hands upon the engines appears? A. In the cost of running the engines per mile, as I showed you upon the statement this morning.

Q. Then the 12 cts. per mile includes engineer and fireman? A. I suppose it does.

Q. What is this item of car service composed of? A. That is for use of passenger cars, baggage cars and mail cars. I think there must be an error in that, which I will have rectified. I don't think car service is computed large enough in that item.

Q. In what form does car service appear upon your statements as filed in Court, December 30, 1863? A. I cannot tell you, sir.

Q. Whether or not, it is deducted out of these earnings before the earnings are credited? A. I don't know sir, how it is.

Q. Whether there is anything in the shape of expense on that statement that appears to be car service? A. I don't see anything, sir. If there was it would be in the form of earnings, and is probably included in the freight earnings. If there was a balance of the general car service it would go into the earnings; if the balance was against us it would be deducted from the freight earnings.

Q. Where upon this statement of expenses of operating M. & Vt. Junc. R. R. do you understand the conductors and brakemen of passenger trains appear? A. In the expense of passengers and freight.

Q. What other items are in that item of passengers and freight, besides conductors and brakemen? A. I don't know, sir.

Q. You have put nothing in this statement for increase of equipment or anything of that sort? A. I don't think so. As I have stated several times, the statement was made up from no accurate data.

Mr. Walker:—I enter upon the minutes here that the expenses of the passenger department of the Trust roads, including the line from St. Johns to Windsor, as shown by the statement filed in Court, is \$95,124 32, and that of the freight department, \$228,951 49, for the seven months ending July 1st, 1873.

Q. Do I understand you to say that Mr. Drury assented to your use of the two miles or thereabouts of S., S. & C. Road in the manner in which you have described, when you had your talk with him about it? A. I stated what Mr. Drury said this morning; it was his judgment a fair offset to our claim for haulage of wood, ties, &c., that had been carried over the Montreal & Vt. Junc. road free of charge.

Q. Are there any other of the leased lines on which you pay anything for hauling your own freight over? A. I think the account is kept of all the freight so hauled, but I don't know.

Q. Well, when you lease a road you expect to use it for your own purpose as you like, don't you? A. Yes, but when we lease a road and pay rent for the use of it out of the gross receipts we should of course be entitled to use it if we pleased.

Q. Whether or not upon that two miles of road there is a long bridge at St. Johns? A. Yes.

Q. How long? A. 1000 to 1500 feet.

Q. One of the most expensive and longest bridges on the road, is it not? A. No, sir. The bridge across the Missisquoi Bay is four times as long, so is the bridge at Rouses Point. With these exceptions the bridge at St. Johns is the longest we have. It does not cost much to maintain it, because its location is such that the pressure from the ice is not what it is on other bridges.

Q. I call your attention to an extract from the certificate signed by Mr. Pinkerton, as follows:—"It is true that the Junction Road alleges, &c., &c.," (reading certificate) and ask you if you still wish it understood that Pinkerton assented to the using of the two miles of road? A. I did not say he assented, but he never claimed that that freight should be carried free. He wanted the account made up exactly on both sides and whatever balance there was should be settled by the side which that balance was against. Mr. Pinkerton considered that the use of the road ought to be charged on one side, and the other side should be charged for the hauling of wood, ties, lumber, &c., and that the account should be made up regularly and settled; but the view expressed in that certificate he never expressed either to me or in my presence to the other committee in our consultations in Boston. The first I heard of it was when that report appeared.

Q. Have you anything in writing to show that they ever assented to any settlement? A. There was no settlement; it has not been settled yet.

Q. Was it ever figured up, how much the earnings of that 2½ miles of road were during the period under consideration? A. Mr. Merrill and Mr. Drury figured that up, and they also figured up the amount that would accrue for carrying this material over the M. & Vt. J. R. R., and found a small balance in favor of the latter. The amount I think has been stated in evidence at about \$20,000.

Mr. Fifield:—I think you are mistaken in that, Governor.

Witness:—That was obtained I think from entries in the custom house, but there is a vast amount of material comes out that is not reported at the custom house.

They got all the data they could as to the amount of stuff hauled over that road; then they got as near as they could to the proportion of business belonging to the two miles. My impression is the accounts on both sides were over \$40,000, and I have the impression that the balance was in favor of the M. & Vt. J.

Q. But I understand the books of the Trust or the management of this road have not been kept in such a way that these items can be accurately ascertained? A. No, sir; I don't think it can be accurately ascertained. The amount on both sides was so near equal that that is

why Mr. Drury considered it was fair to let one offset the other, and that is why he opposed Mr. Pinkerton's proposition.

Q. At what time did the \$50,000 per year arrangement commence? A. I cannot tell you, sir. It commenced certainly on the 1st July, 1873; that I am quite sure. The other has not been settled in any form.

Q. Who was President of the Vt. & Canada at the time the resolution was passed to make an arrangement in 1871? A. My brother.

Q. Can you state why an arrangement was not reached at that time? A. The matter was under discussion by the committee at the time we got into our troubles in 1872, and there was quite a number of difficult questions to be settled about it, and they wanted time to consider it. The question was discussed as to when they could obtain the road without increasing their capital and stock, and whether it should be taken on a fixed or percentage basis. These questions were lying over for settlement, and like other questions, in the pressure of business did not get settled.

Q. Was not the principal reason why you have not been able to make an arrangement with anybody since 1865 down to 1873 because neither the bondholders' committee nor anybody else were willing to come to your terms? A. They could not settle upon the basis themselves. I have said I would be willing to have the matter settled by one or more disinterested railroad men, and abide by their decision.

Q. Have you not said you offered to lease the road for \$50,000 a long while before it was accepted, in January, 1871? A. I don't know whether it was ever accepted.

Q. I understand that you suggested to the bondholders' committee that you were willing to adjust the matter by calling it \$50,000 per year all the time. Am I correct? A. I made that as one suggestion, with the interest on it.

Q. When you claimed 7 per cent., you referred to 7 per cent. on the total cost of the road? A. Yes, sir; so far as we asserted any claim it was on the total cost of the road. We considered we should have the same interest on our capital that the Vt. & Canada had upon their capital, and we felt that they could afford to pay us 8 per cent., and then make money on it.

Q. I understood you to testify that, in your opinion, the cost of the road had nothing whatever to do with the amount of interest that should be paid. A. I think it should be in accordance with what the road will produce. It is not always what the road cost, but what it will produce is the thing to be considered. If I was outside of this Trust, and dealing with it as a stranger, I would not talk about 7 per cent. on the cost of the road.

Q. In reference to the Sullivan Road, did you look into the details at any time to see if your instructions to Mr. Merrill were being carried out in regard to the divisions and adjustment of expenses? A. I looked far enough to see that they were very hard upon us. I reached that conclusion a great many times.

Q. You put in yesterday a vote of the Vt. & Canada Road, passed February 2d, 1860; who drew that vote? A. I think Mr. Peck himself drew it up. I am not positive, perhaps Mr. Blake drew it.

Q. Who drew the decree of 1866? A. I think Mr. Edmunds.

Q. As counsel for the Trustees? A. I am not positive. I think so.

Q. You mentioned the year 1865 as being a period when the business of the roads had been greatly improved by reason of relief of the property from litigation. Was there not a general increase in the business of the country at that time arising out of the inflation connected with the war? A. I think there was.

Q. Whether or not during the first two years of the management of the Sullivan Road by you a bridge was rebuilt by you at considerable expense? A. Yes, sir. The lessees of that road built a bridge over the Connecticut river.

Q. Why was the engine service on the Sullivan Road increased from 8⁰⁰c to 12c in 1869? A. It was done by Mr. Merrill, on the ground that he wanted to be on the safe side and not injure the Trust in the operating of the Sullivan Road. I told him I did not think it was fair; his reply was: "you told me to lean against the Sullivan Road rather than against the Trust."

Q. Whether the engine service was more or less expensive in 1869, and 1870 than it was in 1864-'65-'66? A. I don't think it was as expensive. I don't remember what time the prices of iron dropped, but the price of labor kept up.

Q. In the Management of the Sullivan Road under the method in which it has been managed, you had no occasion to purchase engines, or any equipment of any kind? A. No, sir.

Q. You testified in detail as to the notice which was required by the Court as to the first equipment loan. I understood you to say that the subsequent equipment loans were authorized upon the same notice? A. I don't think I said that.

Q. Did you mean to be so understood? A. No, sir.

Q. As to the income and extension loan; whether any notice at all was given to the bondholders, except through the advisory committee? A. I don't remember.

Q. Or to the Vt. & Canada, except through its President? A. I don't remember now what the notice was.

Q. Is there any record showing any communication (?) by the bondholders in reference to the purchase of the S. S. & C. Road? A. I don't know.

Q. Are you sure that in that first excursion in 1865, the bondholders went over the S. S. & C. Road? A. Yes, sir.

Q. You are unable to state who of the bondholders were present then? A. I cannot recollect them all, sir; there were three or four car loads of them.

Q. Do you remember that Mr. Drury testified before the Investigation Committee that the contract for the S. S. & C. Road was made by Mr. Merrill or the Trustees, before the Committee was chosen? A. If he did so testify, it was an error on his part. This matter was discussed by the

bondholders themselves at the excursion, and some of them were very prominent in talking with the Trustees about it. That excursion was in June, 1865, and the final consummation of the contract was not until May, 1866.

Q. Did I understand you to testify that the money represented by the vouchers for the purchase of the engines and supplies, is the money that had been previously advanced to Foster, and that it went in application of the money, so far that it was not a payment at that time for the engines in any other way than it was by the application of the money? A. That is what I understand to be the fact.

Q. Does that include the \$25,000 you were to loan to Foster upon the security of bonds and stock of the S. S. & C. Road under the agreement of 1862? A. I understand it to include that sum.

Q. In what form had that money been represented upon the books of the Trust during this period? A. I do not know that it appeared at all upon the books of the Trust.

Q. The money was advanced by the Trust? A. Yes, sir.

Q. Was it carried by Mr. Merrill in the form of cash memoranda? A. I cannot say as to that. I don't know but that Mr. Merrill had our receipts for the amount.

Q. In which case he would carry it as a cash memorandum? A. Yes, sir.

Q. There is nothing appears on the books of the Trust as payment to Foster until that time? A. I believe there is no entry and that makes me think that Mr. Merrill may have carried it as cash memoranda.

Q. Have you any way of proving that the amount of these vouchers represents the amount of that sum? A. I think the amount advanced was more than these vouchers.

Q. What makes you think so? A. Because, when we came to settle I found \$5,000 entered on the books of the Trust, along about that time which would make the sum come up to about what Pinkerton swore he understood it to be, and what was my recollection of the amount.

Q. What do you mean by "make it come up?" A. I mean the amount taken for the engines and supplies and the \$65,000 would bring the amount up to \$100,000 advanced in all to Mr. Foster. I think Mr. Pinkerton testified it to be \$100,000, or \$150,000; such was my recollection.

The amount stands now:—

Engines.....	\$ 57,900
Supplies	21,100
Cash	65,000

That would be..... \$144,000

Mr. Pinkerton swore he thought it was \$150,000.

Q. Do I understand you to say that the Trust advanced to Foster under that agreement \$144,000? A. I can state no more than I have in regard to it, because it is all recollection.

Q. Have you any method of proving it? A. I have not, sir. I only know the leading general facts, that we were advancing money to Foster, with a view to accomplish the result contemplated in that vote.

Q. The agreement of the 31st Dec., 1862, provides that Clark and Smith, or the M. & Vt. Junc. will advance to Foster an amount of money not exceeding \$25,000. It also provides that all the bonds (S., S. & C.) now held by Foster, together with those held by Kenneth, Dowe & Co., and all stock, &c., &c. Whether or not that was complied with? A. My impression is that those bonds came along by installments. I may be mistaken—that, however, is my impression. I think it was perhaps two years before we finally got into our hands all those bonds. These were the bonds which Foster had personally endorsed to get his iron. Kenneth, Dowe & Co. sued him and got judgment against him. A portion of the money we let him have was in order to get hold of the bonds which laid behind this judgment. It took us some considerable time before we finally got control of all the bonds and the stock, but I cannot tell you the period of time.

Q. You say during all this time Foster was entitled to \$51,000 and one-third of the net earnings above that? A. Yes, sir, one third.

Q. How long did that arrangement continue? A. Until the purchase was completed.

Q. And the result was that Foster received all the net earnings of the road and did not have enough to make up his \$21,000? A. I don't know how that is. He got all—whatever there was to get.

Q. In what way were the engines and equipment mentioned in exhibit 10a purchased from Foster by yourself and Mr. Clark—whether it was in any other way than by this advance made by the Trust? A. In no other way.

Q. Can you tell when that amount of \$65,000 was actually paid to Foster? A. I cannot, sir. My impression is that was the residuum, what was left, and that was entered upon the book then when we completed the purchase.

Q. In the operation of that road, prior to its purchase, had Mr. Clark or you advanced any money personally, for any purpose connected with it, except what they received from the Trust? A. Yes, sir, we carried on all the operations of the road; I know I have myself advanced money to Foster.

Q. Can you furnish any evidence of that in writing? A. I think I have some little memorandum. I came across a memorandum the other day of \$3,000 I let him have.

Q. Have you any written evidence you can produce of monies furnished by you and Mr. Clark, for the operation of that road prior to its final purchase? A. I have not.

Q. Do you know that this \$3,000 you mention was not part of the money included in these aggregates? A. It was not, sir.

Q. Do you know that it was not soon repaid by Foster as a temporary loan? A. Very likely it may have been. I don't remember as to that.

Q. Why was it, Governor Smith, that you waited until 1869 before pressing this bill for what you claim to be your due for the operation of this road? A. I shall have to refer you to Mr. Clark for that information. The details were in his hands.

Q. You did not know there was anything due at all then? A. Yes, I knew there was a balance due, and I urged Mr. Clark to have it settled. I don't know why it was not settled.

Q. Whose rolling stock was used in operating that road prior to its purchase? A. We put our engines on that road and took Foster's off, as I have explained before.

Q. Well, it took something else beside engines to run the road? A. I think there was one passenger coach, one freight car and one baggage car went up there from here.

Q. How was the freight business done on that road before that? A. This road and the G. T. R. sent up their cars for the freight.

Q. Was any compensation made to the Trust during that period for the use of the rolling stock of the Trust? A. I think the mileage of the engines was adjusted.

Q. Can you show us that adjustment? A. I have simply a recollection of such a settlement.

Q. Have you any idea if the passenger and baggage car was adjusted? A. I think it was.

Q. Can you show us the adjustment? A. No, sir.

Q. Can you show the adjustment of the car service of the freight cars? A. No, sir. My impression is that the service of the car was collected on the lower roads, that it went into the general car service account and they collected for that road. The S., S. & C. Road had six freight cars of their own.

Q. Was there any such system of book-keeping in operation at that time between the Trust and the S., S. & C. Road as there was between the Trust and the Sullivan Road? A. No, sir, I should think not. Nothing appeared upon the books, as I understand, except what that road actually had in the way of wood, lumber, ties, &c. In the settlement with Foster, to make up that \$65,000 was the use of engines and cars, and there must be somewhere a statement of that.

Q. Use of engines and cars? A. I mean the difference between the use of his engines and ours. The service of each was made up—that is, the service of his upon our road and our engines upon his road, and a general balance was struck, which I believe brought Foster a little in debt in that matter.

Q. Was the rent included in that statement? A. All that is included in that statement appears upon the statement itself.

Q. Was that settlement made between you and Mr. Merrill, or was Mr. Foster present? A. Mr. Foster was present some part of the time and got the accounts down to a point to which we could agree.

Q. At the time that \$65,000 settlement was made had he agreed to sell the road for \$250,000? A. I don't think the price was agreed upon. The negotiations was pending a long time, I think, before we had reached a point where we could agree upon the price. It was finally settled at a meeting in Montreal.

Q. Now as I understand it, you think you are entirely mistaken in your testimony at the commencement of this matter that the S., S. & C. Road was operated by the Trust prior to its purchase? A. Not altogether. I don't mean to say that I am entirely mistaken, but an exami-

nation of the papers which I found afterwards on file here has led me to modify my statement somewhat. We were seeking to get control of the road for the benefit of the Trust, and that was the firm we took to accomplish our object.

Q. You were working in the interest of the Trust to bring about this result? A. Yes, sir; the obligations which we assumed were afterwards taken off our hands by the Trust.

Q. Your purchase was to effect a lease of the S. S. & C. Roads to the Trust through the M. & Vt. J., and to attain that you employed \$144,000 of Trust monies? A. That was not all money. It included the shop work done here, use of cars, &c. The account of shop work would be kept on the shop books.

Mr. Walker. I should like to have these shop books produced showing the charges to Foster.

Q. Was there any appraisal of these engines and cars made by Mr. Perkins as contemplated in this agreement? (Agreement read by Mr. Walker.) A. I think Mr. Perkins and Mr. Merrill appraised them.

Q. In all these negotiations and conversations with the bondholders, did they know that \$144,000 of the Trust funds was used for the furtherance of the object in getting that road? A. I don't know that they knew the exact amount; they knew what we were doing.

Q. You spoke of the G. T. R'y claiming its specific from Montreal to St. Johns, do you refer to their Western business? A. I refer more particularly to Montreal and Canada business. I think on the cheap Western business they prorate with our Line from St. Johns—their Line is from St. Johns to Sarnia.

Q. And they call it a shorter distance than it actually is? A. Yes, sir. They make it equal to the Ogdensburg distance.

Q. Is it not customary for roads to make a charge of something for freight originating on their road? A. Not always.

Q. Is it customary for roads to prorate always? A. Not always.

Q. You have testified in reference to the property on hand at the time of the termination of your Trust and have put in a paper showing the summary of it to be \$7,139,785 53. I wish to call your attention to some of the items comprising that statement of assets. One of these items consists of stock, bonds, accounts, &c., on hand \$3874,039 77, whether or not among other items, that includes the amount of stock in the Woodstock Railroad? A. No, sir. That is an error made in the books in entering the word "stock"; it should be "loan" to Woodstock R. R.

Q. Is not the item "notes received, \$544 29" the note of the Welden Hotel Co.? A. I cannot tell what it is.

Q. This list of assets also includes other items of stock—the N. T. Co., Mt. Washington R. R., and all other stock, I suppose? A. Yes, sir. The Washington R. R. Co. is good stock.

Q. Whether or not you understand that the railroads, other than the Sullivan Road and the leased lines, that there was owing to the Trust \$1,557,807 83? A. I understand that to be balances due to us from connecting roads.

Q. Do you understand whether or not that includes balances called "working balances," with the leased roads? A. I do not under-

stand the account, but I presume it does. It does not include suspended balances against the Rutland and Ogdensburg Railroads, but the balances against foreign and connecting roads.

Q. I have repeatedly asked for a statement showing what that item did include. What do you understand the item—due from railroads—S., S. & C. R. R., \$75,814 44? A. I don't know, except as I see a pencil mark there, "Trainroad," from which I should suppose it referred to that property.

Q. Does that inventory also contain an item of bonds on hand, \$951,300?

Q. These, I take it, are the unissued S., S. & C. bonds, V. C. R. R. guarantee bonds and income and extension bonds? A. The income and extension bonds should properly be there, for \$700,000 of that sum represents the First Equipment Loan, under the Decree. It is a special deposit for the exchange of these securities, and designed to take the place of these, if the parties would exchange. We cannot tell whether they will so exchange until they become due. Several parties have signified their willingness to do so.

Q. These bonds, are all of them bonds of the Trust, are they not, in the form of evidence of indebtedness of the Trust? A. Yes, sir.

Q. In that respect is there any difference between these and promissory notes signed by the Treasurer of the Trust? A. Yes, sir, a wide difference.

Q. What difference is there? A. The difference is this, the whole \$35,000 S., S. & C. bonds are held liable to be taken by any second mortgage bondholder who chooses to come and surrender his coupons and take these S., S. & C. bonds, so that in that sense these bonds are in the light of a promissory note.

Q. Well, if you issue them in that form, you will have to pay them at that time? A. Well, we pay a debt by so doing; it is an evidence of indebtedness.

Q. Whether the item of assets to the amount of \$541,596 bonds first mortgage S., S. & C. Road refers to the original bonds? A. Yes, those are the bonds we have as security for the other bonds.

Q. You stated the representatives of this road advised the guarantee of the Missisquoi bonds, who were those representatives? A. I think I said they urged the importance of the road being built. I don't think I said they advised about it.

Q. Who was it that advised the endorsement of those bonds? A. I don't know that I made any reference to the bonds.

Q. I ask the question independent of the testimony: who was it on the part of the Trust that entered into that transaction? A. Mr. Brainerd, Mr. Cheney, Mr. Clark, Mr. Taylor and I think Messrs. Drury and Pinkerton were spoken to about it.

Q. Is it your belief that Cheney assented to it? A. Yes, sir.

Q. Did he sign the petition to the Court? A. I don't know whether he did or not.

Q. You have described the examination that Pinkerton and Drury made from time to time of the books of the Trust; have you any knowl-

edge of what books they saw? A. No, sir. They had all the books here and saw those they wanted to.

Q. Have you ever seen their certificate of approval upon any but the cash book? A. No, sir, I don't think their approval was upon any other book than the cash book.

Q. Have any of the bondholders ever asked to see your books, other than Pinkerton and Drury—I mean the Advisory Committee? A. I don't think they have, sir; the books have been open to them for inspection.

Q. Do the monies invested on the Waterloo Tramroad appear upon the cash book of the Trust? A. I should think so. I have never looked to see.

Q. What was the agreement in reference to the construction of the road and the title of the land. The letter you have produced from Mr. Ferrier, making the transfer, mentions an agreement? A. That is an agreement to extend the road from the Huntingdon mine to the Ives mine.

Q. Have you entered into that agreement in writing? A. I don't know whether it is an agreement or letter. My brother tells me it is an agreement.

Q. Is that the only agreement to which this property is subject? A. So I understand.

Q. Did you not have an understanding with Mr. Huntingdon that you would have the road built by a certain time. A. No, sir; there was no specific time for its completion.

Q. Who was the contractor of that road? A. I forget his name.

Q. Has he been settled with? A. He says not. I don't know whether he has or not. I have a letter from him on my desk now.

Q. Was your contract with him in your own name or signed as President? A. I never made a contract. I never saw him until I met him in Boston. Shaw made the contract with him.

Q. Have there been any expenses on that road since July 1st, 1873? A. I don't remember at what date it was surfaced, whether before or after that time.

Q. How are the masters to ascertain that the accounts which were due to the Trust, as shown by the report of 1861, were collected, or were not lost? A. An examination of the books will show that.

Q. Then an examination of the books is necessary to ascertain that fact? A. No, I don't think it is, because you have the trial balance. You have a statement of cash received from time to time since that period.

Q. The question is whether the accounts that were then due to the Trust have been properly collected, and whether, from the reports the trustees have furnished, the masters are able to ascertain that fact. Has there been any statement furnished to these masters that will enable them to ascertain? A. I think there has. There has been a trial balance which will show the whole thing, and the statement which they are now at work at, covering the whole period of time, will show all the facts it is necessary to show.

Q. Do you know how the account entitled "Directors and Managers Account," has been kept; that is, has been kept as a profit and loss? A. I do not. I suppose that it takes the place on the books of the profit and loss account. I so understood it from the bookkeeper.

Q. Did I understand you to say that the National Car Co. made its own repairs in every case except the damage occurred through the fault of the road? A. So I understand it, sir.

Q. Have you read the contract with the N. C. Co.? A. Not thoroughly, but I understand that is the arrangement and custom.

Q. I desire to call your attention to this clause in that contract and ask you if you are not mistaken? (Clause read by Mr. Walker, commencing "In the event of any accident arising, &c.") A. No, sir, I am not mistaken, that is how I understood it, exactly. If the fault is on their side they do their repairs, if on our side we do them.

Q. Supposing it should happen without any fault on your part and it cannot be shown that the fault is theirs, who would have to make the repairs then? A. I suppose we should.

Q. You have stated in conversation, as I understand, that Mr. Pinkerton's statement that he understood from you that there was an option in the Railroad Co. to take the cars at a valuation, was an error. There was a provision in one of the contracts but I don't know which it is that the company may at their option take the cars? A. There is no such provision in the National contract. We had the right to limit the number of cars, that was the protection in that contract, the V. I. C. contract says we may take the cars at cost.

Q. How many cars are now owned by the National Car Co? A. I cannot tell the exact number; about twelve or thirteen hundred.

Q. Whether you have received \$25,000 regularly as President of the Vt. C. Line? A. I have not.

Q. Have you received anything further for your services than the single payment in evidence? A. No, sir.

C. Not from any source? A. No, sir.

Q. Which of the lower roads insisted you should retain the Western business? A. The Northern and Lowell Roads and myself have had various meetings, and they have been unwilling to stop the business. I don't think I said they "insisted," if I did, I should make some qualification of it: They advised that we hold the business.

Q. Mr. Hatch testified before the Investigating Committee that for all the payments by him by way of retainer, as stated in his vouchers put in evidence, he took a separate receipt which he passed into the general office. Can you produce those receipts? A. I don't know whether I can. I have never seen any receipts, except vouchers, and we have produced all we can that were produced at the Investigation Committee.

Q. Mr. Hatch has testified that he paid and took receipts from all or nearly all of the following parties:

[List of the parties in question, as they appear in the Appendix of the Investigation Committee's Report, read by Mr. Walker.]

Q. These names have appeared in evidence in addition to the names of the regular counsel of the Trust, as persons who have been

paid retainers from time to time, chiefly by Mr. Hatch, and he said he furnished vouchers to the general office. Do you know where those vouchers are? A. I have given you all the vouchers I possess, sir, or ever had.

Q. During your connection with the Northern Pacific R. R. what was your salary as president of that road? A. I cannot tell you, sir, I don't remember. My account was settled, and the amount paid me I took in bonds of the road, that included salary, travelling expenses, &c., I don't recollect the amount.

Q. The only point to the question is whether for your services you were paid by them? A. I was, sir. They offered me a large salary if I would quit here and devote my time to that Company entirely, but I declined.

Q. You were paid for your services as construction agent of the Burlington Branch? A. Yes, sir.

Q. How was it in reference to the Swanton Branch? A. I don't know about that. I don't think I was paid for that.

Q. At the time of settlement with Barnard when you made him this extra allowance of 35 per cent. who participated in that settlement? A. My impression is that Mr. Clark and myself made the settlement.

Q. Was that the settlement that Mr. Merrill testified to? A. I suppose it was, sir.

Q. In reference to maintaining the Vt. Central organization, what has there been for the clerk to do for the last ten years? A. Simply to keep the records at the annual meeting.

Q. Did I understand you to say there could be no transfer of Vt. & Canada stock without the signature of the Treasurer of the Vt. Central? A. That was the agreement, sir. I understand that the present Vt. & Canada Board have undertaken to issue certificates without that form. Mr. Brooks took upon himself to make that change.

Q. How long was that practice kept up? A. Until Mr. Brooks came in.

Q. You said the clerks of the general office had no labor to perform in reference to the Sullivan Road? A. No, sir, I did not quite say that.

Q. What was it then? A. I said the entries on the books here by the clerks was simply a larger sum of money involving no more labor than to enter the Vt. Central funds.

Q. They keep accounts with the station agents don't they? A. Yes, sir.

Q. And with the conductors? A. Yes.

Q. And they have to make the distribution of all the freight trains that pass over the line? A. No, sir.

Q. The employes here have to get out the freight money for the Sullivan Road and distribute, haven't they? A. Yes, sir. But whatever labor there may be it does not involve any addition to the clerical force.

Q. I understand there is a separate set of books for that road, and that the accounts of that road have been fully kept, and distinct, in the same manner as if that road had been an independent road. Then the

duties of the superintendent, bridge master, road master and managers generally—the heads of the departments—have extended over that road, have they not? A. No, sir; that road has a separate road master—whose duties it is to look after the bridges; he keeps his accounts separate and distinct; that is Mr. Bennett.

Q. What about Mr. Sprague? A. He was called in as advisor once and when he went that way he looked at the bridges with Bennett.

Q. How long has Bennett been there? A. Since long before we took the road.

Q. Was there any one else beside him employed separately? A. The station agents are all kept separate.

Q. Have you a separate paymaster? A. No, sir.

Q. Do I understand you to say that you are unable to produce the vouchers of the S., S. & C. Road prior to 1870? A. I have given you all the vouchers we have. I think Mr. Fourdrinier took them away.

Q. What personal knowledge have you upon the subject of endorsing paper? A. I got my information from gentlemen, in Boston, in the business. It was in testimony, also, before the Masters.

Q. Please state whether the 327 shares of the Vermont & Canada stock which are referred to in the opinion of the Court, 34th Vermont, page 65, were actually issued, and whether rents were paid on those shares? A. The records of the company will tell you better than I can, sir.

Mr. Walker, in view of the fact that if such rent has been paid, it was improperly paid, said he would introduce some testimony on the matter the next day—Friday, October 1.

Q. (By Mr. Willard). I call your attention to this payment of \$50,000, in two notes, to Foster. What was that payment for? A. Iron, chairs, ties, lumber, timber, and for work on the road.

Q. For stock and bonds? A. He subscribed some stock in that company, and it may be that was done merely to end his interest in that road.

Q. What was the amount of bonds under that contract? A. Under the original arrangement on the contract Foster was to have an interest in the road to the amount he paid in. That was to close his interest.

Q. Do you understand it was mostly for materials? A. Yes, sir; materials furnished to Linsley.

Q. Mr. Linsley testified that he had some iron of Foster? A. He merely meant that some iron came from Foster's road.

Q. Do you understand that Linsley's indebtedness, part of it, was to Foster for iron? A. No; that was for cash he had put in himself.

Q. Where was that indebtedness of Linsley's? A. Some to the St. Albans Foundry, Jed. P. Clark, Peck & Co., some to his men, &c.

Q. I will call your attention once more to this statement of Government debentures, \$32,000, I understand them to be municipal bonds? A. That is right.

Q. These debentures are the same as the municipal bonds, and are part of the \$67,000? A. Yes, sir.

Q. How do you account for their appearing twice—once as \$67,000, delivered to Linsley at par; then as cash paid (gold), \$32,000? **A.** That is a matter I will look up. They seem to be put in twice.

Q. I want to call your attention to this statement of this first payment of \$67,000, charged here as gold; was that anything that you or Mr. Clark had to raise as money? **A.** I cannot say, sir.

Q. Do you know if it is anything different from what the vouchers show? **A.** I do not know anything about it.

Q. If these bonds were delivered by you to Linsley, of course, you did not advance him the amount of money which represents those bonds? **A.** He may have pledged them, and we may have paid that amount to redeem the bonds.

Q. What occasion would you have to redeem them? **A.** It would be so much money to us towards building the road.

Q. Have you and Clark bought since that time the stock that was issued to these towns for their bonds? **A.** Yes, sir.

Q. How much did they cost you? **A.** Twenty-five cents on the dollar.

Q. Did you testify as to the time when you bought it? **A.** I cannot tell you, now, I think about two or three years ago.

Q. Was that stock issued by this corporation in return for the bonds? **A.** Yes, sir.

Q. Did you pay for it in gold or currency? **A.** Gold.

Q. These \$200,000 of first mortgage bonds were issued by you as a corporation? **A.** Yes, by the M. & Vt. J.

Q. Did you deliver these bonds or any part of them to Linsley? **A.** I think they were, cannot tell positively. I did not deliver them personally. I cannot tell you what the disposition of the bonds was originally.

Q. And, of course, you cannot tell whether you redeemed those bonds after Mr. Linsley had pledged them, or not? **A.** Mr. Clark and I owned and controlled the bonds of the road, but how Mr. Clark obtained possession, and in what form, I cannot explain. I do not know. They are now in the bank at Montreal.

Q. This contract with Linsley was for \$440,000; did that represent what was at that time the subscription to the capital stock of the road? **A.** Yes, sir, and the municipal bonds.

Q. Was anything stated as to whether he was to have the notes which formed part of the amount of construction, in U. S. currency or gold? **A.** Gold, sir. It you think when currency is referred to, that it alludes to U. S. currency you misunderstand it, sir, that always means Canadian currency.

Q. He was to have \$100,000 in stock, was any of that stock issued to him? **A.** I think there was, and afterwards transferred to Clark and myself.

Q. Was it represented by any of these receipts? **A.** No, sir.

Q. Did he give any receipt for it? **A.** If he had the stock from the Treasurer undoubtedly he gave his receipt.

Q. Do you understand that any stock he had in his hands was returned to you when he gave up the contract? **A.** Yes, assigned to

us; in taking the contract from him we took the whole thing off his hands.

Q. (By Mr. Dennison) You took it the same as if you had taken it originally instead of him? A. Yes, sir, and we were entitled to the payments in the contract.

Q. When was it Linsley went out and you took the work? A. In the summer of 1864, I think.

Q. At that time he had graded the road, had he not? A. No, sir, and I desire to explain here a question asked of Mr. Clark, which he failed to explain. Mr. Linsley's testimony was that the contract was laid as far as St. Alexandre, but the grading was not completed, depots not built, fencing not done, ties not paid for. This \$33,000 put on the statement is very much too low a figure, in view of the amount of work left undone.

Q. Has there ever been any dividend made upon the stock of that road? A. No, sir.

Q. Have the earnings of the road been more than sufficient to pay the interest on the mortgage? A. Yes, sir.

Q. Why has there been no dividend made on the stock? A. There is a large amount of notes outstanding of the Company.

Q. What notes and to whom given? A. Mr. Clark and I have quite a number of notes for money advanced the Company, and those notes have not been paid yet.

Q. Will you produce those notes? A. I will, if you wish it.

Q. What is their amount? A. I cannot tell exactly. I think I have something over \$100,000, and Mr. Clark the same.

Q. \$200,000 between you. Have you any objection to producing them here? A. No, sir.

Q. How much did you receive from this subscription of stock? A. I think we received \$60,000 or \$70,000—that is purely recollection though. Mr. Clark and I subscribed \$15,000; Mr. Moore, 2,500; Mr. Des Riviere, \$4,000; Mr. Foster, \$3,000; Mr. Baker, \$1,000; Mr. Woodbury, \$1,000; Mr. Roberts, \$1,000; Mr. Brigham, \$1,000. I don't remember all.

Q. You understand there was \$80,000 put in by the Northern Road? A. Yes, sir.

Q. And \$200,000 bonds? A. Yes, sir.

Q. Has the money which has been received by you—the one-half gross earnings—been applied to extinguish the indebtedness? A. It only needs to be applied upon those notes.

Q. Is there any indebtedness of the corporation now, outside the amount of those notes, to you and Mr. Clark? A. I don't know of any. I think there is not.

Q. And you and Clark own the interest? A. We own almost the entire amount of stock of the road, and the debts and bonds of the road.

Q. You have bought then all the stock that was subscribed by individuals. What did you pay for it? A. I don't remember what I paid.

Q. Have you paid more than 25c gold? A. I should think not.

Q. Will you produce in the morning those bills, the evidence of indebtedness of the M. & Vt. J. R.R., against you and Clark? A. I have no objection.

Mr. Walker then read the amount of interest in the statement of cost of construction of M. & Vt. J. Road which was \$70,658.20.

He then put in "statement of mileage run by engines on M. & Vt. J. Road," which was marked "Exhibit 95."

It was agreed among Counsel that voucher No. 1861, (*page 161*) should be sent to Col. Thorndike to get his written explanation thereon which should be admitted.

Court then adjourned until next day, Friday, Oct. 1st.

FRIDAY MORNING, OCT. 1st—MORNING SESSION, 9 A. M.

Mr. A. G. Safford called by Mr. Walker, and duly sworn.

Direct examination by MR. WALKER.

Q. Are you Clerk of the Vt. & Canada R.R. Co.? A. I am.

Q. Have you examined the Vt. & Canada books with reference to the issue of 327 shares of new stock? A. I have.

Q. Will you furnish, for the reporter to note, such portions of the Vt. & Canada books as may relate to that subject, show what the stock represents and that it was referred to in the form of a decision and disallowed? A. It appears from the books—for, of course, I testify wholly from that source—that as early as June 29th, 1855, there was a discussion between the Vt. & Canada and Vt. Central R. R. in relation to the cost of construction of the Vt. & Canada. On that date a meeting of Directors was holden at White River Junction, and a committee was appointed by the Directors consisting of C. O. Whitmore and J. P. Putnam to meet a similar meeting appointed by the V. C. R.R., in reference to this cost of construction. The records of that meeting occupy the pages from 142 to 152 (inclusive) of the first volume of Directors Records, Vt. & Canada.

On January 27th, 1857, a directors meeting was held at Boston, at which the following vote was passed. It appears upon page 203, same volume:

"Voted that a committee of three from this Board be appointed by the president, with full powers to settle and adjust all outstanding accounts between this corporation and the Vt. Central R. R. Co., growing out of the construction of the Vt. & Canada Road, and that they be authorized to make and execute any and all papers which they may consider necessary to carry into full effect such settlement and bind the corporation thereby."

Messrs. Dexter, Whitmore and Putnam were appointed.

On the 8th April, 1857, there was a meeting of directors, held at the Revere House, Boston, at which the committee report (which report will be found on pages 210 to 225, inclusive, directors records.)

In that report the committee state the figures of the claims both on the part of the V. C. R. R. and Vt. & Canada, and they then agreed to state the amount between the two corporations as follows:

Amount due from the Vt. & Canada to V. C. R. R.....	\$72,979.57
Amount due from V. C. R. R. to Vt. & Canada.....	40,316.35

Amount due to July 1st, 1853..... \$32,673.15

This report is signed

C. O. WHITMORE,	} Committee.
J. M. DEXTER,	
J. P. PUTNAM,	

In the Directors' report of the 28th Dec., at the annual meeting of the stockholders, held at Montpelier, 1857, the Directors report to the stockholders that the balance of indebtedness due from the Vt. & Canada to the V. C. R. R. from the construction account has been determined to be \$32,673 15.

At the meeting of stockholders of Vt. & Canada, at Northfield, June 3, 1859, it was voted as follows:—

"The balance found due from the Vt. & Canada to the Vt. Central for money expended by the Vt. Central in construction of the Vt. & Canada Road, amounting to \$32,673 15, as of July 1st, 1853, to be paid in stock of the Vt. & Canada Railroad Co., to be issued as of July 1st, 1853, by vote of the stockholders, within forty days from this date, and to be taken at par in payment of such balances, in accordance with the agreement between the Vt. & Canada and Vt. Central Railroad Companies, made at the time of said expenditures."

On the 3d of February, 1860, it was voted that the Treasurer be instructed to issue to such persons as the Vt. Central R. R. may designate, 327 shares of the stock of this Company, in pursuance of the agreement between this Company and the Trustees 1st Mortgage bonds, of July 7, 1859, and the vote of the stockholders of this Company the same day: On the 3d day of July, 1860, there was issued to J. Gregory Smith as appears from Vt. & C. records, 4 4th page, 100 shares, denominated new shares. On the same date there was issued to W. C. Smith 50 shares, to Joseph Clark 20 shares, to L. B. Peck, President Vt. & Can-

ada, 12 shares, to Levi Underwood 75 shares, to J. M. Dexter (one of the committee to adjust matters between the Vt. C. R. R. and Vt. & Canada R. R.) 20 shares, to C. O. Whitmore (another of the committee) 50 shares; making the 327 shares.

At the stockholders meeting at Northfield, 1st November, 1860, the books show that the report of the Directors, which was signed by

L. B. Peck, President,
Edward Blake,
John Porter,
W. C. Smith,
Jed P. Clark, Directors,

and it contains the following statement in relation to these 327 shares:—

“The amount of stock issued on which rent was paid for some years by the Central Company and by the Trustees of the Bondholders is \$1,348,500. To this sum should be added the amount of stock issued in settlement of the balance found due the Central Company as before stated, being \$22,700.

On a hearing before the Chancellor it was insisted by the defendants that the actual cost of construction was less than that sum, and as the basis for the issue of stock was the cost of construction, too much stock had been issued. The Chancellor referred the case to two special Masters to ascertain and report what they found to be the actual cost. Some of the items which the two companies had treated as properly chargeable to cost of construction the masters did not regard in that light, and, therefore, disallowed them, reporting the facts applicable to each item. The amount so disallowed is about \$100,000, which reduces the cost of construction so much.

The Chancellor on the final hearing in substance stated that in his judgment some of the items were improperly disallowed by the Masters, but he thought it advisable under the circumstances to accept the report, and let the case go to the Supreme Court for final adjudication, if either party desired to take it there.”

At the stockholders meeting, at Northfield, Nov. 6th, 1862, the report of the Directors was submitted and signed by:—

Lucius B. Peck, President,
Edward Blake,
John Porter,
W. C. Smith,
Jed P. Clark, Directors.

In that report the following statement was made in relation to the 327 shares:—

“In answer to the bill filed by this Company in 1855, to enforce their lien for payment of rent, the defendants in their answer insisted that the Central Co. had a large claim, some \$250,000, against the Canada Co. for money expended in constructing the road of the latter Co., and when that was applied it would more than extinguish the rent then due. This claim was finally adjusted by the Directors of the two companies in 1857, through committees of the two boards appointed for that purpose, and the sum found due to the Central was \$32 673.15, which was to be paid in cash or the stock of this Co. as the Central might elect. That Com-

pany having decided to take stock, the stockholders of the Canada at a meeting, in 1859, directed the Board of Directors to issue stock for that sum, which was accordingly done.

At one of the hearings before the Masters in 1858, it was insisted on the part of this Company that the sum so allowed the Central should be charged to the cost of construction. The Masters reported the facts as found by them and the Court disallowed the claim, as it did not sufficiently appear in their judgment that the charge arose in constructing the road. The result is that this amount this company must lose, and it can be provided for on the issue of stock for the extension into Burlington."

Q. Can you state here by reference to the supplemental bill of the Vt. & Canada in this cause filed on Sept. 1863, and appearing in the appendix of the Investigation Report, the amount of capital stock of the Vt. & Canada, as stated by the said Vt. & Canada in the said supplemental bill? A. The amount is not set forward in the bill. The bill says the capital stock is now ———

Q. (By Mr. Fifield.) What is the third article of the decree of that bill, sir, please read it.

Mr. Safford then read the article in question, which will be found in the appendix of the Investigation Committee's Report.

Witness continues: "In pursuance of that on the 11th of February, 1864, the Vt. & Canada R. R. increased its stock to the amount of 5998 shares, that being 44 $\frac{1}{4}$ per cent. of 13,812 shares. The stock dividend of Feb. 11th, 1864, was made up on a basis including the 13,485 shares authorized by the decree of 1861 and the 327 shares issued as I have stated, making in all 13,812 shares.

There was 5 per cent. cash dividend paid upon these 327 shares and dividends have been paid upon them up to the present time. I understand they were paid up to June, 1872. I have not all the dividend books.

That is all to my knowledge that appears upon the books in reference to these 237 shares. The transfer book upon which the stock of 327 shares appears, has never been turned over to me by my predecessor. I presume that it was used at the time before the Chancellor early in 1873, and after that it got separated from the rest of the books.

Q. Will you put in a statement containing a list of officers of the Vt. & Canada R. R.? A. I have this paper which shows the list from 1848 to the present time.

List in question, purporting to be "List of Officers Vt. & Canada R. R. from 1848 to present time (inclusive)" put in by Mr. Walker—marked "Exhibit 98."

Mr. Walker:—Counsel in the same connection will desire to refer to the report of the Masters in 1859, which has been presented, and also to the testimony upon the files of the Court, forming part of the said report.

I desire also to put in evidence a short extract from the meeting of the Vt. & Canada held in Boston, July, 1861:—

"Boston, July 26th, 1861.—Directors met pursuant to notice. Present, the President, Messrs. Blake, Porter, Dexter and W. C. Smith. The following preamble and resolution were adopted:—

WHEREAS, The Supreme Court, State of Vermont, have, by their decision, recently made in the case which has been a long time pending, in favor of this Company against the Vt. Central Company and others, affirmed and established the validity of the lease of the Canada Road to the Vt. Central Company, and the contract of July, 1850, creating a lien for the payment of rent due under said Lease, and

WHEREAS, The Chancellor has, in pursuance to the mandate of said Supreme Court, among other things, ordered that the Receivers cause their accounts to be settled, and thereupon to pay from time to time to this Company the net earnings of said roads, therefore,

Resolved, &c."

I merely wish to show that the decision of the Supreme Court was not announced prior to July 6th, 1861.

Copy of contract of Missisquoi R. R. put in by Mr. Walker, and marked "Exhibit 97."

The Secret Service Fund book to be treated as in the case.

Mr. Lansing Millis re-called by Mr. Fifeild.

Q. Please explain to the masters, if you please, about this extra mileage of the M. & Vt. Junction Road, and how it is made up in the division of earnings of the line, and who bears that extra mileage? A. It is made up on the basis of 35 miles for M. & Vt. Junction, 17 miles for the line between here and Canada line, 120 miles from here to White River Junction, and 144 miles then from there to Boston, making 316 miles instead of 307 miles. The line through pays its proportion.

Q. That is the line pays its share of this extra mileage? A. Yes, sir. Perhaps I can explain it by figures better. The mileage is made up of 316 miles. 11 per cent. goes to the M. & Vt. Junction, 43 $\frac{1}{2}$ per cent. to the Central, and 45 $\frac{1}{2}$ per cent. to the roads below, which makes the lower roads bear 1 $\frac{1}{2}$ per cent. of the extra mileage.

Q. I will ask this general question: Who bears the burden of that extra mileage, the Vt. Central or the entire line? A. The entire line, sir. The M. & Vt. Junction bear their share of it because it is put on as through mileage—extra—that is, 316 miles instead of 307, so that the M. & Vt. Junction bear their proportion of the 9 miles extra.

Cross-examined by Mr. WALKER.

Q. What is the proportion of that mileage borne by the road from Province line to White River Junction? A. 43 $\frac{1}{2}$ per cent. of the through rate, or 1 $\frac{1}{2}$ per cent. of the extra mileage.

Q. 1 $\frac{1}{2}$ per cent. is borne by the Trust roads, and what by the lower roads? A. 1 $\frac{1}{2}$ per cent.

Q. Where did you obtain those figures, Mr. Millis? A. The mileage makes it, sir; that is how the business is shown upon the books.

Q. You computed them from the books, then? A. Certainly, sir.

Q. Did you have anything to do with that arrangement when it was made? A. No, sir. The division of the business between St

Johns and St. Albans on business coming over the M. & Vt. J. this 17 miles of the Central Road gets half of it, which is more than their proportion.

Q. How about similar business for stations below Essex Junction?

A. That is divided on the 35 mile basis.

Mr. Worthington C. Smith re called by Mr. Walker.

Q. I wish to ask you whether the Foundry Company have not during the years in question, done a considerable business in the way of coal to the citizens of this place? A. I think they have sir. I don't know the amount though.

Q. Have they not until within a year or so been substantially the only parties supplying coal here in the village? A. I should think not, sir, but I have no knowledge. There has been an establishment at the Bay—Bostwick's.

Q. Yes, but that did not begin until 1873. Your estimate of freights included everything you paid the road, I presume? A. Yes, sir; but that was only up to 1873, not since then.

Mr. Willard then put in as evidence, statement of castings and wheels furnished by St. Albans Foundry Company for 13 months, from June, 1872, to July, 1873, marked "Exhibit 98."

Q. (By Mr. Walker.) Mr. Smith, is this paper marked "Statement of prices paid by Trustees and Managers, and by T. & B. Road for wheels and castings," a copy of that from which you testified, and which was called for by Mr. Davenport? A. Yes, sir.

Paper in question purporting to be statement of prices paid by the Trustees and Managers for car wheels and castings, and by the T. & B. R. R., as testified from by W. C. Smith, marked "Exhibit 99," put in by Mr. Walker. Statement of old wheels and old scrap sold by the Trustees and Managers to other parties than the St. Albans Foundry Co. from 1862 to 1873, as called for by Mr. Davenport. Marked "Exhibit 100;" put in by Mr. Walker.

Gov. Smith, recalled by Mr. Fifield, said in reference to the time the Northern Pacific drafts were carried as cash memoranda by the Treasurer. "We cannot find any more record of the matter than what is already shown. The account was made up by Mr. Williams, and my recollection is that the amount charged for interest covered all the interest up to that time. I had given to Mr. Williams cash at times of my own, and this \$1,765 is the balance of the interest account up to that date—that is as I understand it, still I cannot say positively. He had funds from me to a large amount—sixteen or seventeen thousand dollars. I understand the \$1,765 to be the balance of interest on amounts he had of mine and monies advanced to me by him.

Mr. Walker: If you look at the Ledger I think you will see that it states distinctly that it is interest from a certain date upon this sum of \$21,000.

Governor Smith—It may be so, but I understand it to be as I have stated. I have been through the vouchers and books, and I will pursue the search. The books should show when those drafts were paid, al-

though I don't know whether they do, or whether he carried it as cash memoranda.

Mr. Walker—He stated he carried as cash memoranda for two or three years before he turned it in. I should suppose by your system of book-keeping, it could not go by without being entered in the cash book.

Governor Smith—The Trust had so much of my money to use until I wanted it; when a draft came against me, Mr. Williams would telegraph me, and I would instruct him to pay it, and as I understand this interest account is a settlement of interest between his account and mine but I will have the matter looked up and see.

Q. (By Mr. Fifield). With regard to the 327 shares of extra stock, did that stock actually represent the cost of construction of the Vt. & Canada Road? A. It was so understood. The Investigation Committee which was appointed in 1852 was appointed for the purpose of investigating the whole of the affairs of the V. C. R. R., including the relation of the Vt. & Canada. On the 1st July, 1853, they made their report, in which they reported the balance due from the Vt. & Canada to the Vt. Central of \$252,583.14, which they claimed was the proper cost of constructing the Vt. & Canada, and that the Vt. & Canada should issue their stock or pay the money to the Vt. Central R. R. for that amount. This matter was a point of constant contention between the two Companies until 1859, when we came to the question of compromising all these matters, so as to establish perfect harmony. The matter was then referred to a committee of the two roads—a committee of the Vt. & Canada and a committee of the Vt. Central. The report of these committees has been read by Mr. Safford. These committees went carefully over each item in dispute in the construction account, and the result of it was, that this balance, \$32,673 was brought out as the amount strictly and legitimately due from the Vt. & Canada to the Vt. Central, as balance of construction account against the Vt. & Canada Road, for which it was agreed stock should be issued. When the matter came before the Masters, and afterwards before the Court, some of the bondholders contested that question, said it was not right, but as very little testimony was put in, but it is all in the case, that is the records, and you will see the points that were raised before the Masters and what course they took. It was settled and agreed between the companies that that was a portion of the construction account, and was properly chargeable to the Vt. & Canada, and that she ought to issue her stock for it.

The Masters reported adversely to the question raised by the bondholders; and it was thrown out of the Supreme Court, not upon the merits of the case as was claimed, at all, but for the want of proper evidence to satisfy both the Masters and the Court. After that, I think it was after, the Vermont & Canada, in compliance with the agreement which they had made, and the report of their committee which they had accepted, had to recognize it in some form, and instead of increasing their capital, or taking the amount out of their back rents, issued the 327 shares.

Q. And that amount is included in the \$2,000,000, is it not? A. Yes, sir. You add the amount to the amount of issue as reported by

Mr. Safford, and you will find it amounts to the difference between \$1,348,000 and the \$2,000,000. It did not increase the amount of capital against the bondholders nor against any other creditors or any interest. The decree of 1864 recognized that and fixed the capital at \$2,000,000, leaving the parties to settle the matter as they pleased.

Q. (By Judge Poland). When the Vt. & Canada raised their stock to \$2,000,000 they included this amount due upon the construction account? A. Yes, sir.

In regard to the municipal bonds, Governor Smith stated: "In reference to the question asked me by Mr. Willard yesterday, as to the municipal bonds being entered twice upon that statement, cost of M. & Vt. Junction, I cannot explain it in any other way than that Linsley had taken those bonds and hypothecated them, and that we afterwards redeemed them. The receipts Linsley gave for them are dated in July, 1863, which is a month after he commenced the work. I have no personal recollection of the transaction, and in view of Mr. Linsley's, this conclusion is the only one I can come to. These bonds were worth par, or rather their market value, to the company when we got them. With regard to the estimate itself, as I have stated, I do not present it as an accurate statement. I cannot get the actual cost in consequence of the embarrassments that surround me, and it is to be taken for what it is worth. Mr. Linsley testified the ties were only laid as far as Stanbridge. In my estimate I did not include the ties in the estimate of \$30,000. I have now added to the statement the number of ties per mile at the price Linsley paid for them. I have also added the amount which Linsley testified to as debts which I had omitted, making the total now \$788,808.85.

I have also presented two other tests for the consideration of the Masters. I put them in as tests of the accuracy of the approximation of this estimate of the cost, no more than that. I have made up a statement on the basis of our stepping into Linsley's shoes and building the road at the contract price of \$444,000, assuming that we went on and completed the road, add to that amount the land damages, bridges, the Y, and incidental expenses, and it brings it up to ——— gold, which reduced to a currency basis equals———

The other test is: I have taken Mr. Hale's testimony as to what would be the cost of the road, taking \$25,000 per mile for cost of grading the road, and for iron, \$9,000 per mile—\$34,000—which for $22\frac{1}{2}$ miles equals \$765,000 currency. To that I have added land damages, not included in Hale's estimate, and that with the incidental expenses, brings the price up to \$820,689.97 currency.

These three methods of computation are so near alike as to satisfy me that this estimate of cost which I furnished is a fair estimate, and between these three statements, I think, the cost of that road in currency can be arrived at satisfactorily.

Q. (By Mr. Fifield) Why in the first computation did you include interest down to January, 1866? A. For the reason that the interest on the capital during the cost of construction is always charged as a portion of the cost, during the time of construction. I find by referring to the books that the first payment made to Clark and myself was in 1867,

October; we did not derive anything from the road until then, the Trust had it all. I therefore included interest to January 1st, 1866.

Q. (By Judge Poland.) Mr. Linsley testified that he received some money from Mr. Baker, did you include that in your estimate? A. No, sir. I have not had an opportunity to look that matter up and see how it was, and therefore I did not include it.

Q. (By Mr. Willard.) Do you know where all the ties were bought for that road? A. Some of them on the S. S. & C. Road, and some at Pike River—that is what Mr. Linsley states.

Q. Those bought on the S. S. & C. Road were from Foster, were they not? A. Yes, sir.

Q. In speaking of the municipal bonds, I understand you to say that when you redeemed them they would be worth par to you? A. No, sir. I said "par" at first, but corrected myself and said "market value" I think. Mr. Merrill swore they were sold at 90 or 95. When they were redeemed we put them into the road.

Mr. Willard:—I call your attention to the statements I desired put in in regard to the amount of rents paid the leased roads for the thirteen months ending July, 1873, and the amount paid the N. T. Co. for the same time.

Q. There have been some papers filed as exhibits in reference to what is called equipment loan sinking fund. Do you understand that all the equipment that was pledged for the redemption of these loans has been kept for that purpose and the account of the use of it? A. Yes, sir. I so understand it; that was the order given.

Q. And you suppose this account here covers all receipts from that equipment loan in that way? A. Yes, sir; I suppose it does.

Recess until 2 p. m.

AFTERNOON SESSION.

Court assembled at 2 p. m.

Mr. Underwood called by Judge Poland, and duly sworn.

Examined by Judge Poland.

Q. On page 148 there is a voucher, No. 7618, in reference to a claim for land damages, will you please tell the Masters what there is to that? A. There was a piece of land there, on Champlain and Water street, fronting Main street of about an acre, which was in controversy between Hart, Leslie & Warren and the Farmers' and Mechanics' Bank, growing out of a conveyance on a title coming from Rathbone, the Forger, who failed in Buffalo. The Farmers' and Mechanics' Bank was in possession of this land which was then used by the railroad, and that being the bank which supported this road they let the matter lay. When the suit terminated it was in favor of Hart, Leslie & Warren, who made a claim upon the Receivers here for the use of it, a very large claim it was—several thousand dollars. I was instructed to act for the Receivers, went and saw Gen'l Leslie and settled the matter at \$4,000, at which price the Receivers were to become owners. I offered \$2,500 for the land, which was accepted. Messrs. Hart, Leslie & Warren received \$4,000, which was made up by the \$2,500. I was to pay for purchase

of the land, and the balance, \$1,500 was paid by the Receivers, for which the voucher in question is the receipt.

Judge Poland then offered in evidence three notes for \$34,567 each, dated May 27th, 1868, payable to Joseph Clark, signed P. H. Moore, President M. & Vt. Junc. R. R., and countersigned by J. C. Baker, Treasurer, payable at the office of the Treasurer of the Company, with interest at eight per cent., paid in at Stanbridge, C. E. Also, three notes, precisely similar in all respects except that they are payable to J. Gregory Smith.

These were the notes which Mr. Willard requested production of, and due execution of the same was admitted by counsel for Vt. & Canada.

Mr. Fifield then filed the following papers:

"J. Gregory Smith's private account with the trustees and managers," marked "Exhibit 39a."

"Services and travelling expenses, J. Gregory Smith," marked "Exhibit 40a."

"J. G. Smith's account for material and labor, July, 1861, to July, 1873," marked "Exhibit 41a."

"J. Gregory Smith in account with the Sullivan Road," marked "Exhibit 42a."

"J. Gregory Smith, in account with M. & Vt. Junction Road," marked "Exhibit 43a."

Summary of Governor Smith's private account, "Exhibit 44a."

Gov. Smith re-called by Mr. FIFIELD.

Q. I show you exhibit 42a, your account with the Sullivan Road; is that a correct statement? A. I presume it is.

Q. I show you exhibit 43a, account with the Montreal & Vermont Junction Road; is that a correct statement? A. I suppose it to be, sir. I did not make these statements out; but I believe them to be correct.

Q. I show you exhibit 39a, account with the Trustees and Managers, and 40a, services and travelling expenses; are they correct statements? A. I presume they are, sir. I desire to say here that there is a credit in the last statement you named of services allowed me by the former Masters to July, 1861, \$10,983.33.

The report which the Masters made, brought my account down to July, 1859, and after deducting what had been paid me on account it left \$10,983.33 due to me. The books were not kept in such a way as would enable me to enter that credit in that form—it was impossible for me to pick out the items. These accounts charge me with every dollar I have received since I became acquainted with the Trust, in 1859, to the present time.

Q. (By Judge Poland.) Upon the books there is no credit to you for salary at all? A. No, sir; none at all.

Q. (By the same.) So you charge your salary and credit the amount allowed by the Masters? A. Yes, sir.

Q. (By Mr. Fifield.) I show you exhibit 39a, and in the same connection I call your attention to vouchers 1603-4, (see page 168, and

errata). I want to know if the amount of these vouchers is charged to you in this account which has been filed? A. I understand it to be.

A paper purporting to be a "Detailed statement of amount due from sundry railroads to July 1st, 1873," marked "Exhibit 101;" also, list of persons whose names appear upon the consolidated bond books, but whose signatures are not on the said books, marked "Exhibit 102."

Governor Smith recalled by MR. WALKER.

Q. In this "detailed statement of amount due from sundry railroads," there are two accounts against the New London Northern R.R., one entitled old account, \$84,994.32, and one entitled new account \$61,808.89, what is the distinction between those accounts, and what do they respectively represent? A. I don't know what the distinction is between the old and new account exactly, the account consists of unsettled balances between that road and this. The books show so much due from the N. L. Northern R.R., which has not yet been settled.

Q. Who was operating that road in the spring of 1873? A. The lessees, Mr. Cheney, my brother and myself.

Q. Then this account is against those persons as lessees? A. Yes, sir. It is an unsettled freight balance between the two roads.

Q. These other freight balances against the Northern, Cheshire, and B., L. & N. R. Roads, do they represent unsettled balances as to which there are outstanding claims? A. I presume they are current balances as our books show.

Q. Do you know if their books agree with yours? A. I suppose they do, there may possibly be some offsets for damages or allowances that have since been settled.

Q. This amount, \$302,572 32, against the Northern Transportation Co., what does that consist of? A. I don't know what that is.

Q. What is this amount against the Rutland Road of \$81,890 62? A. I cannot give the details of that, sir.

Q. What is the charge of \$71,897 21 against the Missisquoi Railroad Co.? A. That is the unsettled balance against that Company.

Q. I suppose this amount of \$56,000 against the M. & Vt. Junc. Road is the \$56,000 loan that has been spoken about. A. Yes, sir. All these accounts were charged over to the new Receivers; many have been adjusted and settled since then.

Q. Do you know if that last item has been adjusted? A. Yes, sir. I understand it has been deducted from the rent of the Montreal & Vt. Junc., and the Trust has been settled with for the amount, as I understand.

Q. Are you certain on that point? A. I understand that the \$56,000 has been charged over to the Montreal & Vt. Junc. as against the proportion of receipts of that road and paid by the Montreal & Vt. Junc. \$30,000 of the loan has been paid leaving \$20,000 balance due to the Northern Road.

This was understood to close the oral testimony, although counsel thought they might have some written evidence in the way of statements, &c., to put in. It was decided to adjourn then, and re-assemble on Wednesday, October 20th, for argument.

Court adjourned accordingly until October 20th.



EXTRACT FROM RECORDS OF VERMONT & CANADA RAILROAD CO.

DIRECTORS' MEETING, FEBRUARY 2, 1860.

On motion of Mr. Blake, the following preamble and resolutions were adopted:

WHEREAS, In the opinion of Company it is expedient and necessary that some arrangement should be made for a more effective and successful method of securing and retaining business upon the line of the Vermont Central and Vermont and Canada Railroads, in order to develop the legitimate and proper resources of said roads and to prevent a division of the business from this to other and competing lines of railroad, and

WHEREAS, By the recent opening of the Victoria Bridge over the River St. Lawrence, on the Grand Trunk Road, and the competition which is threatened by that road for the business which belongs to and should come over this line, it is expedient and proper that all proper means should be taken by this company to retain said business and prevent said competition if possible, or if not fully to prevent it, to place this road and the Vermont Central Road in a position where they can better meet said competition, and this line of road have heretofore experienced great loss and embarrassment in operating their line for want of a proper control of the road running from Rouse's Point to Montreal in making up arrangements for running trains and in making up tariffs for transporting freight growing out of the positions taken by the Directors of said road in refusing to enter into amicable and just arrangements with said Vermont Central and Vermont and Canada for doing their business, and

WHEREAS, By the act of the Vermont Legislature, passed November 23d, 1852, and by the provisions of Section 66 of Chapter 26 of the

Compiled Statutes, authority is conferred upon one railroad company to make contracts and arrangements with each other and with railroad corporations of other States and in the Province of Canada, for leasing or running their roads or any part thereof.

Now, therefore, with a view to facilitate the business of said Vermont Central and Vermont and Canada, and to provide against and, as far as is possible, to protect the said railroads from impending and ruinous competition, and also with a view to the better and more full development of the proper and legitimate resources of said Vermont Central and Vermont and Canada Roads;

Resolved, That it is expedient and proper for this company to make such arrangements for connecting with and running, operating or managing the Montreal and Champlain Railroads, embracing the St. Johns Division and the Lachine and Caughnawaga Divisions, under the provisions of the acts of the Vermont Legislature as aforesaid.

Resolved, That Lawrence Brainerd, Joseph Clark and J. Gregory Smith be and they are hereby appointed and constituted the agents for and in behalf of this Company to carry into effect the foregoing resolution in such manner as they may deem most for the interest of the Vermont Central and Vermont & Canada Companies, and as will in their judgment best secure the end sought to be attained. Said agents' action to be joint and no agreement or arrangement to be made unless all of said agents agree therein.

DIRECTORS' MEETING, MARCH 5, 1863.—APPOINTMENT OF CHENEY AND PORTER AS COMMITTEE TO SETTLE WITH AGENTS OF CONSTRUCTION OF THE BURLINGTON BRANCH:

It is further voted that John Porter and B. P. Cheney are hereby appointed a Committee to settle with the agents of construction for their services in building the branch into Burlington.

DIRECTORS' MEETING, MAY 22, 1863.—APPOINTING COMMITTEE TO MEET COMMITTEE OF 1ST MORTGAGE BONDHOLDERS:

The President presented a request from a committee of the 1st Mortgage Bondholders for a meeting of conference for an adjustment of all matters of difference between the said Bondholders and the Vermont & Canada R. R. Co.

Whereupon it was voted that the President and Messrs. Robinson and Smith be a Committee on the part the Directors to meet and confer with the said Committee of the Bondholders aforesaid in reference to such adjustment.

STOCKHOLDERS' MEETING, OCT. 1, 1863.—REPORT OF ABOVE COMMITTEE AFTER MEETING COMMITTEE OF BONDHOLDERS.—STOCKHOLDERS' VOTE RATIFYING BASIS OF SETTLEMENT.

The Stockholders of the Vermont & Canada R. R. Co. met agreeable to above notice.

The President in behalf of the Committee of Directors appointed a Committee of the Bondholders to consider a plan of settlement between the Vermont & Canada R. R. Co. and the Bondholders of the Vermont Central Co. reported the substance of a proposed plan of settlement subject to the approval of the Stockholders of this Company; whereupon it was unanimously

Resolved, That the contract of settlement between the Bondholders of the Vermont Central R. R. Co. and a committee of the Board of Directors of this Company, together with the modification proposed by said Directors, and the same is hereby approved and adopted, and said Directors are requested to take such measures to carry the same substantially into effect as they shall deem proper. The ratification of the proposed compromise is made on the express condition that all parties in interest shall be bound thereby by decree of Court of Chancery in order to be obligatory, and that it shall be in full settlement and discharge of all claims and matters in controversy between this Company and the Bondholders of the Central Company, and that incidental expenses of this Company shall be provided for—leaving, however, the contracts of lease of roads in 1849 and in 1850 in force—and that the whole subject is referred to the Directors to settle details and to do whatever is necessary to carry said arrangements into effect and protect the rights of this Company.

DIRECTORS' MEETING, JANUARY 29, 1864.—VOTE OF DIRECTORS ON THE
ISSUE OF STOCK UNDER SAID DECREE.

The Directors met agreeable to adjournment.

The President submitted a series of resolutions adopted by the Directors of the Vermont and Canada R. R. Co. authorizing among other things an increase of the capital stock of the Vermont and Canada and the issue of additional stock for that purpose. The resolutions were ordered on file.

Mr. Cheney then offered the following preamble and resolution, which were unanimously adopted.

WHEREAS, A compromise has been effected between the Vt. & Canada R. R. Co. and the First Mortgage Bondholders of the Vt. Central R. R. Co., by the terms of which, among other things, the capital stock of said Canada Company is to be increased to two millions of dollars in settlement and discharge of a portion of their back rents; and

WHEREAS said compromise has been confirmed by a decree of the Court of Chancery held within and for the County of Franklin and State of Vermont, bearing date the 19th day of January, 1864; and

WHEREAS the Legislature of the State of Vermont, at its last annual session, by an act approved Nov. 4, 1863, did authorize this Company to convert their back rent into stock and to increase their capital for that purpose with the view of carrying into effect said compromise; therefore

Resolved, That the capital of this Company be and the same is hereby increased to (2,000,000) two millions of dollars and that the

necessary amount of stock be issued for that purpose in accordance with said compromise and decree.

Mr. Cheney further offered the following preamble and resolution, which were also unanimously adopted:—

WHEREAS, by the terms of the Decree of the Court of Chancery of the State of Vermont, dated the 19th day of January, 1864, there is due to the present Stockholders of this Company, in addition to the sum provided for in the issue of increased stock, a further sum of Ninety-Seven Thousand Dollars, payable in cash on or before the expiration of three years from the 1st of June next, (1864) with interest from that date, by the Receivers and Managers of the Vt. Central and Vt. & Canada Railroads, which sum, when paid to this Company by said Receivers, should be distributed *pro rata* to said Stockholders; therefore,

Resolved, That the Treasurer of this Company is hereby authorized to issue to said Stockholders a certificate of the amount that will so be due him, stating therein the terms of the Decree in this respect, and that the same will be paid when said amount is paid this Company by said Receivers.

On motion of Mr. Edward Blake, the Treasurer was instructed to publish the following notice:—

By authority of an act of the Legislature of the State of Vermont, approved Nov. 4, 1863, and in accordance with a decree of the Court of Chancery of said State, made on the 19th day of January, 1864, Six Hundred and Eighteen Thousand Eight Hundred Dollars of the rents due from the Vt. Central Railroad Company to the Vt. & Canada Railroad Company is converted into the stock of the Vermont & Canada Railroad Company, and the capital stock of said Company is thereby increased to the sum of Two Millions of Dollars. A stock dividend of forty-four and $\frac{1}{2}$ dollars on each share is hereby declared payable to the stockholders of record at the close of business on the 10th day of February, 1864. The shares of the Vt. & Canada Company, being one hundred dollars each, all proportions of stock amounting to less than that sum will be paid in cash. The remaining sum of ninety seven thousand dollars, due under the decree aforesaid, will be distributed *pro rata* to stockholders of record on said 10th day February, 1864, in certificates of indebtedness, payable according to the tenor of the same.

Payments will be made as above, on and after the 1st of March next, at the office of Edward Blake, 39 Court street, Boston.

DIRECTORS' MEETING, SEPT. 7, 1865.

On motion of Mr. Blake, the President was instructed to object, on the part of this Company, to any further issue of stock for the purpose of erecting passenger depots and other buildings on the line of this road, as requested by the Receivers and Managers of the Vt. Central and Vt. & Canada Roads, in their petition to the Chancellor, to be heard this day.

DIRECTORS' MEETING, APRIL 11, 1867.—VOTE OF DIRECTORS APPROVING PROPORTION OF 1ST AND 2D MORTGAGE BONDS.—BASIS OF DECREE OF 1867.

The President submitted the following preamble and resolutions:—

WHEREAS, The committee of the 1st and 2d Mortgages of the Vermont Central R. R. Co. have this day communicated to this company, through its President, a proposition looking to the funding of the entire floating indebtedness upon the property and to the regular continuance of the payment of rents upon the Vermont and Canada stock, and the interest upon the several classes of bonds, and as a part of said plan, proposing that this company shall increase their capital stock two hundred and fifty thousand dollars. In consequence of increased length of road and permanent improvements to the property of this company, it is therefore

Voted, That the Directors hereby signify their approval of the proposition submitted, and that a meeting of the stockholders of this company be notified to be held on the evening of the 22d inst., to consider and act upon the proposed increase of capital stock.

Mr. Cheney moved that the above resolution be adopted. Carried.

Voted, That this company will join with the parties in interest in a petition to the Court of Chancery of the State of Vermont for such order and proceeding as will secure the end contemplated in said propositions.

Moved that the clerk call a special meeting of the stockholders of the Vermont and Canada R. R. Co., at the Welden House, St. Albans, Vt., on Monday, April 22, 1867, at 8 p. m.

STOCKHOLDERS' MEETING, APRIL 22, 1867.—VOTE OF STOCKHOLDERS RATIFYING DECREE OF 1867, AUTHORIZING ISSUE OF STOCK AND THE S. & C. BONDS.

Hon. W. C. Smith, President Vermont and Canada R. R. Co.:

DEAR SIR:—The committee of the 1st and 2d Mortgage Bonds of Vermont Central Railroad, acting in conjunction with the Trustees and Managers of the Vermont Central and Vermont and Canada Railroads, having had under consideration the subject of the liabilities of the Trustees and Managers and a method of providing for the same, have agreed upon the following, as in their judgment, all things considered, the best and surest plan for relieving the trust property and providing for the payment of the dividends on the various securities on the property, and they herewith submit the same to the consideration of the Board of Directors of the Vermont and Canada Co., and ask their concurrence and co-operation in carrying the same into execution.

The liabilities of the Trustees and Managers, exclusive of the amount due the Vermont & Canada Company on their certificates of indebtedness, were, April 1, 1867,
To which add amount Certificates of Indebtedness.....

\$753,312 98
114,000 00

\$ 867,312 98

Vermont & Canada dividend, due January 1, 1867.....	\$ 90,000 00	
Interest on Equipments from May 1, 1867.....	28,000 00	
Amount due 1st Mortgage June 1st, 1867.....	105,000 00	
Amount due 2d Mortgage June 1st, 1867.....	52,500 00—	275,500 00
		<u>\$1,142,812 98</u>

To provide for this it is proposed: 1st, that the Vermont & Canada increase its Capital Stock.....		\$250,000 00
From which pay its Dividend.....	\$ 90,000 00	
From which pay its Certificates of Indebtedness.....	114,000 00—	204,000 00
		<u>\$46,000 00</u>

Leaving a balance in the hands of Trustees.....

If the Vermont & Canada Company pay its dividend in the stock of the Company the Trustees and Managers to provide the money to pay the fractions on stock and scrip.

2d. To issue under a decree of the Court the coupon notes of Trustees, payable 20 years from date at 7 per cent. interest, secured as collateral by the bonds of the Stanstead, Shefford & Chambly R. R. in the hands of the Trustees.....	\$560,000 00
5,000 shares of the stock of said Company.....	500,000 00
And the net earning of that road amounting last year to \$33,000 00 in gold to the amount of.....	500,000 00
Out of this sum the holders of the 1st Mortgage to an amount sufficient to pay their coupons maturing June and Dec. 1st.....	210,000 00
	<u>\$290,000 00</u>

The 2d Mortgage Bondholders to take of this balance sufficient to retire their coupons on their bonds maturing June and Dec., 1867.....	105,000 00
	<u>\$185,000 00</u>

Of this sum the holders of the second Mortgage Bonds agree to take 10 per cent. of the amount of said Mortgage or \$150,000 00 in cash. The balance, \$35,000 00 to be negotiated by Trustees as same may be required.

3d. The Chancellor to authorize the Trustees and Managers to increase the Equipment Loan to the amount of The Trustees would then have as available assets with which to pay liabilities as follows:	\$300,000 00
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Balance due Vermont & Canada Stock.....	46,000 00
Balance due B., S., & C. Loan.....	185,000 00
Amount of Equipment Loan.....	300,000 00
	<u>\$531,000 00</u>

Also the earnings of the road to Dec. 1, 1867, estimated net.....	350,000 00
	<u>\$881,000 00</u>

Amount debt.....	\$753,312 98
Dividend Vermont & Canada Dec. 1st.....	100,000 00
Interest on Equipment Loan.....	40,000 00

Less assets.....	\$893,312 98
	<u>881,000 00</u>

Balance owing.....	\$ 12,312 98
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We respectfully ask the action of the Vermont & Canada concurrent on the above, and request them to signify to the undersigned whether they will join with the undersigned in an application the Court of Chancery in Vermont for a decree authorizing the parties to carry the above plan into execution.

Signed:

W. C. SMITH, } Trustees 2d Mortgage
R. F. TAYLOR, } Bonds Vt. C. R. R. Co.

J. M. PINKERTON, } Committee 1st
R. F. TAYLOR, } and 2d Mort-
JOSEPH ANDREW, } gage Bonds.

We assent to the above and recommend the same.

L. BRAINERD, } Trustees and Man-
JOSEPH CLARK, } agers 1st Mortgage
J. GREGORY SMITH, } Bonds Vt. C. R. R.

W. J. CONER,
OTIS DRURY,
J. A. FURMAN,
M. HALL STANTON.

After a general discussion the following preamble and resolutions were submitted by the President for the action of the meeting:

WHEREAS, The Trustees and Managers of the Vermont Central and Vermont & Canada Railroads have communicated notice to this Company through its Board of Directors that the cost of construction of the Swanton Branch has been largely in excess of the stock issued therefor, namely to the amount of \$100,000 00, and that large and permanent additions and improvements have been made to and upon the property of this railroad, at Burlington and St. Albans, to the amount of \$250,000 00 consisting of Docks, Depots, Engine Houses and Repair Shops at said places, by reason and on account of which both the cost and value of the property of this Company have been largely increased; and

WHEREAS, The said Trustees and Managers have further notified this Company that on account of the monies expended for this Company in the increased cost of construction of the Swanton Branch, and of said large expenditures in adding to and improving the property of this Company, and on account also of large outlays of money made in the interest and for the advantage of said roads upon the consent and by the advice of the committee of the 1st and 2d Mortgage Bondholders of the Vermont Central R. R. Co., as well as other parties largely interested in the securities of said roads, they the said Trustees and Managers have not the means in hand to pay either the accruing rent due upon the stock of this Company on the 1st of June proximo, or the Certificates of Indebtedness issued by this Company, with the accrued interest upon the same, due of the 1st of June, proximo.

Now, therefore, to the end that the increased cost and value of the property of this Company may be properly represented, it is

Voted, That the capital stock of this Company be increased two hundred and fifty thousand dollars, so that the same shall stand at Two Million Five Hundred Thousand Dollars.

Voted, That the Directors of this Company be and they are hereby authorized to issue the stock of this Company in shares of One Hundred Dollars each to the amount of Two Hundred and Fifty Thousand Dollars.

First. To the holders of record of the stock of this Company on the 25th day of April, instant, in payment of the interest due upon their stock on the 1st of June, prox.

Second. To the holders of the certificate, of indebtedness issued by this Company in payment of said certificates, with the accrued interest upon the same to the said first day of June, prox.

Third. The balance of said stock to be issued to the Trustees and Managers of the Vermont Central and Vermont & Canada Railroads.

On motion the chair appointed Messrs. Otis Drury, J. D. Hatch and Jos. H. Converse to act as tellers, who reported as follows :

Your committee having attended to their duty report the whole number of votes cast 4524, all of which are YEA.

Signed,

OTIS DRURY,	} Committee.
JO D. HATCH,	
JOS. H. CONVERSE,	

DIRECTORS' MEETING, APRIL 9, 1869.—VOTE OF DIRECTORS AUTHORIZING CHANGE OF "SINKING FUND."—AUTHORIZING EQUIPMENT LOAN OF 1869.

Boston, April 9, 1869,—4 o'clock P. M.
B. P. CHENEY's Office, No. 12, Railroad Ex. }

Directors met pursuant to adjournment.

Present, Messrs. Porter, Blake, Cheney, Atherton and Newton. Meeting called by the Vice President.

The following communication was received from the Trustees and Managers and presented to the meeting:—

Boston, April 8, 1869.

To the President, Directors, &c., of Vt. & Canada R. R. Co:—

GENTLEMEN:—In view of the present indebtedness against the Trust, increased in repairing the Rouse's Point bridge and in building the new draw therefor, and for new equipment recently added to the road, and other indebtedness, necessarily increased for the benefit of the Trust property, and in view of the necessity for still further equipment to meet the increasing wants of the road, we respectfully request you will assent to a decree of the Court of Chancery of Vermont, authorizing the Trustees and Managers to borrow money to an amount sufficient to pay said indebtedness and to procure such additional equipment as may be necessary to meet the increasing wants of the road.

We shall be happy to receive your early reply, or to meet any committee you may appoint to confer with us.

Very respectfully, yours, &c.,

(Signed)

J. GREGORY SMITH,
ROBT F. TAYLOR.

On motion of Edward Blake the following vote was unanimously passed:—

Voted, That this corporation, hereby pursuant to the request of the Trustees and Managers, this day received, assent to a further issue of Equipment Bonds, not exceeding one million of dollars over and above the present issue.

Voted, That the Treasurer report at the next meeting a list of the deeds of conveyance to the Corporation of all the lands purchased and held by this Corporation at St. Albans and Burlington, and a general description of the land.

On motion meeting adjourned.

DIRECTORS' MEETING, FEB. 11, 1870.—COMMITTEE APPOINTED TO ACT WITH RECEIVERS AND MANAGERS IN REFERENCE TO CONTRACTS WITH CONNECTING ROADS.—OGDENSBURG LEASE.

WHEREAS, it is desirable for the proper and more efficient development of the business of the Vt. Central and Vt. & Canada Railroads, that more permanent and definite business arrangements should be entered into with connecting roads; and,

WHEREAS, in perfecting said arrangements, in order to give greater stability thereto and secure legal binding contracts for a term of time, it may become necessary that the Vt. & Canada Company should become party to the same; therefore,

Resolved, That a committee consisting of the President and Messrs. Porter and Atherton, or either two of them, be and they are hereby appointed and invested with the full power of this corporation to negotiate and conclude, in conjunction with the Trustees and Managers of the Vt. Central and Vt. & Canada Railroads, any and all contracts or business arrangements with any connecting railroads, that in the judgment of said committee and Trustees and Managers may be thought for the best interests of this Company, or of the line of which the road of this Company forms a part, and to negotiate and arrange with the said Trustees and Managers to carry out and perform said contracts for and in behalf of this Company. And the President or, in his absence, the Vice President, is hereby authorized and empowered to sign any and all said contracts or business arrangements for and in behalf of this Company and to attach the seal of this corporation thereto.

On motion the meeting adjourned.

DIRECTORS' MEETING, OCT. 20, 1870.—VOTE ON COMMITTEE APPOINTED ON OGD. & L. C. R. R.

The following preamble and resolutions were offered by Mr. Blake, and unanimously passed:—

WHEREAS, The committee consisting of Judge Porter and Samuel Atherton, Esq., appointed by this Board, on the 11th day of Feb., ult., report that they have entered into a contract in conjunction with the Trustees and Managers Vt. Central and Vt. & Canada Railroads, for running and operating the Ogdensburg & Lake Champlain R. R. for a term of twenty years from and after the first day of March, A. D. 1870,

Resolved, That the action of said committee is hereby approved and ratified.

On motion the meeting adjourned.

DIRECTORS' MEETING, JAN. 5, 1871.—RUTLAND LEASE.

The following preamble and resolutions were unanimously passed:

WHEREAS, The Trustees and Managers of the Vermont Central and Vermont & Canada Railroads, on the 30th day of December, 1870, entered into a contract with the Rutland Railroad Company for the use and control of the Rutland Railroad and the equipments and other property connected therewith, and also for the use and control of certain other railroads under the control of the Rutland Railroad, and certain property connected therewith, all which is particularly set forth in the contract between said Trustees and Managers and said Rutland Railroad, dated December 30th, 1870, before referred to; and

WHEREAS, said contract has this day been laid before the Board of Directors of the Vt. & Canada Railroad Co., at a meeting therefor duly called to consider the subject; now, therefore,

Resolved, That the action of said Trustees and Managers in entering into said contract is hereby approved, and the assent of this Company is hereby given for the approval of the same, by order of the Court.

Also, the following preamble and resolution was submitted and passed:—

“WHEREAS, The Montreal & Vermont Junction R. R., extending from the Province Line, in the town of St. Armand, Province of Quebec, to the point of junction with the Stanstead, Shefford & Chambly Railroad, near St. Johns, in the said Province, constitutes a part of the line of the Vermont Central and Vermont & Canada Railroads between St. Albans and Montreal, and is the only mode of connection under the control of the Vt. Central and Vt. & Canada with the Stanstead, Shefford & Chambly R. R., now owned and controlled by the Vt. Central; and

WHEREAS, it is desirable to place said Montreal & Vermont Junction R. R. in a position where it may be permanently under the control of this line of road; therefore,

Resolved, That the President, Messrs. Porter and Atherton be a committee with full powers to confer with the Trustees and Managers of the Vermont Central and Vermont & Canada Railroads as to the best method of securing the said Montreal & Vermont Junction Railroad on some safe and permanent basis, and to assent in behalf of this Company to such contract or arrangement as may be agreed upon between said Trustees and Managers and the Montreal & Vermont Junction Railroad Company;”

Provided, That in whatever contract may be made for the Montreal & Vermont Junction Railroad the Trustees and Managers of the Vermont Central and Vermont & Canada shall assume the running and operating of said road, so long as they shall continue in possession of said roads, and save harmless the Vermont & Canada from any liability on account of any claims for damages, or any losses which may occur, arising from the running and operating said roads."

DIRECTORS' MEETING, MAY 2, 1871.—VOTE IN REGARD TO GUARANTEED BONDS.

The following preamble and resolution was read:—

WHEREAS, There is now outstanding against the Trustees and Managers Vt. Central and Vt. & Canada Railroads a large floating debt, a part of which has been incurred in the constructing of the Swanton and Burlington Branches of the Vt. & Canada Railroad, and of the docks at Burlington, and in excess of five hundred thousand dollars over and above the amount now represented by the stock of the Vt. & Canada Co.; and the balance of which debt has been increased in improving the road beds and superstruction of the Vt. Central and Vt. & Canada roads, and in procuring additional equipment for the same; and,

WHEREAS, In order to a permanent continuance of the payment of rent to the Vt. & Canada Co., as well as the payment of interest on the road, a funding of the aforesaid debt is claimed advisable and necessary; and,

WHEREAS, To accomplish the purposes aforesaid, as well as to provide enlarged accommodations and additional equipments, a proposition has been laid before the Board of Directors of this Company, as follows:—

First. That this Company issue their additional stock to the amount of five hundred thousand dollars and deliver the same to said Trustees and Managers, for and on account of the permanent improvements and additions to the Vt. & Canada Road, in the Swanton and Burlington Branches and the dock property at Burlington, aforesaid, as is required by the provisions of the Vt. & Canada lease.

Second. That this Company endorse and guarantee the payment of the bonds or notes of said Trustees and Managers to the amount of one million dollars, to be issued by them, payable in twenty years from date, and bearing eight per cent. interest, payable semi-annually;

Provided, That if said Trustees and Managers shall fail to pay the principal of said bonds or notes, or the interest thereon, as it becomes due and payable, the Vt. & Canada Railroad shall have the right to enter upon and have peaceable possession of the Trust property under the control of said Trustees and Managers, which right is to be assured to the Vermont & Canada by a proper contract providing for the same, and authorized by the Court of Chancery of Vermont; now, therefore,

Resolved, That the Directors of this Company hereby signify their approval of the foregoing proposition, and that a meeting of the Stockholders of the Company be notified to be held at St. Albans, Vt., on the

16th day of May, 1871, to consider and act upon the same, at eight o'clock P. M., at the Welden House.

On motion of Mr. Blake the foregoing preamble and resolution were passed.

There being no further business, the meeting adjourned.

DIRECTORS' MEETING, MAY 16, 1871.—VOTE IN REGARD TO GUARANTEED BONDS.

Board of Directors met pursuant to call.

The following vote prepared for the acceptance of the Stockholders was then read:—

WHEREAS, At a meeting of the Directors of the Vt. & Canada Railroad Company, held in Boston, on the 2d day of May, A. D. 1871, it was voted to recommend the issue of the additional stock of this Company to the amount of one-half million dollars, to represent the additional cost of construction of the Swanton and Burlington Branches of the Vt. & Canada Railroad, and to deliver the same to the Trustees and Managers of the Vt. Central and Vt. & Canada Railroads, for and on account of the expenditures by them made in such construction, and also to endorse and guaranty the notes of said Trustees and Managers to the amount of one million dollars, upon certain conditions in said vote mentioned; now, therefore,

Resolved, That this Company issue their additional stock to the amount of one-half million dollars, and deliver the same to said Trustees and Managers, at par, to be disposed of by them for and on account of the expenditures by them made in the construction of the Swanton and Burlington Branches of the Vt. & Canada Railroad;

Provided, Said stock shall be distributed among those who are stockholders of record in this Company of this date, *pro rata*, at par value, if they shall signify their option to take the same by notice in writing to the Treasurer of this Company, or Edward Blake, Esq., Transfer Agent, Boston, Mass., on or before the 1st day of June next, and shall pay for the same on or before the 1st day of July next, with eight per cent. interest after June 1st, 1871.

That this Company may endorse and guarantee the notes of said Trustees and Managers to the amount of one million of dollars, payable in twenty years from date, (of July 1st, 1871), and bearing interest at the rate of eight per cent. per annum, payable semi-annually, free from United States income tax;

Provided, Said Trustees and Managers execute a writing to this Company agreeing to pay said notes, principal and interest, as it becomes payable, and if they shall fail so to do that the Vt. & Canada Railroad Company shall have the right to apply for a summary order in petition for relief, in cause Vt. & Canada Railroad Co. vs. Vt. Central Railroad Co. *et als.*, to protect them against such liability, and for such appropriation of the earnings of the roads as to the Court shall seem equitable and just, and in accordance with the prior orders and decrees of the Court in said case, and the Hon. John Porter, Vice President of

this Company, is requested to see to the execution of such contract on the part of said Trustees and Managers, and to accept the same on behalf of this Company.

Resolved, That the Treasurer of this Company be and he is hereby authorized to execute the endorsement and guaranty of the aforesaid notes, for and in the name of this Company, and for that purpose may make use of the seal of the Company.

On motion of Mr. Blake, seconded by Mr. Atherton, it was voted to recommend the vote, as read, for the ratification of the Stockholders.

STOCKHOLDERS' MEETING, MAY, 16, 1871. — VOTE OF STOCKHOLDERS IN REGARD TO GUARANTEED BONDS.

The Stockholders of the Vermont & Canada Railroad Company met pursuant to notice, and were called to order by the President. The call for the meeting was read.

At the request of the President, the following preamble and resolutions were read by the Clerk:—

WHEREAS, At a meeting of the Directors of the Vt. & Canada Railroad Company, held in Boston, on the 2d day of May, A. D. 1871, it was voted to recommend the issue of the additional stock of this Company to the amount of one-half million dollars, to represent the additional cost of construction of the Swanton and Burlington Branches of the Vt. & Canada Railroad, and to deliver the same to the Trustees and Managers of the Vt. Central and Vt. & Canada Railroads, for and on account of the expenditures by them made in such construction, and also to endorse and guaranty the notes of said Trustees and Managers to the amount of one million dollars, upon certain conditions in said vote mentioned; now, therefore,

Resolved, That this Company issue their additional stock to the amount of one-half million of dollars, and deliver the same to said Trustees and Managers at par, to be disposed of by them for and on account of the expenditures by them made in the construction of the Swanton and Burlington Branches of the Vt. & Canada Railroad;

Provided, Said stock shall be distributed among those who are stockholders of record in this Company of this date, *pro rata*, at par value, if they shall signify their option to take the same by notice in writing to the Treasurer of this Company, or Edward Blake, Esq., Transfer Agent, Boston, Mass., on or before the first day of June, next, and shall pay for the same on or before the first day of July next, with eight per cent. interest after June first, 1871.

That this Company may endorse and guarantee the notes of said Trustees and Managers to the amount of one million dollars, payable in twenty years from date, (of July 1st, 1871), and bearing interest at the rate of eight per cent. per annum, payable semi-annually, free from the United States income tax;

Provided, Said Trustees and Managers execute a writing to this Company agreeing to pay said notes, principal and interest, as it becomes due and payable, and if they shall fail so to do, that the Vermont &

Canada Railroad Company shall have the right to apply for a summary order on petition for relief in the cause Vermont & Canada Railroad Company vs. Vermont Central Railroad Company *et als.*, to protect them against such liability and for such appropriation of the earnings of the roads as to the Court shall seem equitable and just, and in accordance with the prior orders and decrees of the Court in said case, and the Hon. John Porter, Vice-President of this Company, is requested to see to the execution of such contract on the part of said Trustees and Managers and to accept the same in behalf of this Company.

Resolved, That the Treasurer of this Company be and he is hereby authorized to execute the endorsement and guaranty of the aforesaid notes for and in the name of the Company, and for that purpose may make use of the seal of the Company.

The President then made a brief statement of the affairs of the Trustees and Managers and gave the reason that had influenced them to ask for the additional issue of stock and the guaranty of their notes. He also presented a detailed statement of account of Trustees and Managers against the Vermont & Canada Company, on account of construction and otherwise, showing a balance in favor of the Trustees and Managers of more than five hundred thousand dollars. A general discussion of the questions before the meeting followed, in which the President, Gov. Smith, Messrs. Mixter, Blake, Drury, Cheney, Porter and others engaged.

Mr. Mixter moved that the question be divided, and that the meeting proceed to vote on the first proposition, which was to increase the stock of the Vermont & Canada Company one-half million of dollars. This motion was seconded and carried.

It having been moved and seconded, the stockholders voted to increase the stock of the Vermont & Canada Railroad Company one-half million of dollars, in accordance with the resolution referring thereto.

On motion the meeting proceeded to vote on the second proposition, viz: to endorse the notes of the Trustees and Managers, as provided for in the resolution. The question was put and the resolution carried.

On motion of Mr. Drury, the meeting adjourned *sine die*.

EXTRACT FROM RECORDS OF FIRST MORTGAGE BONDHOLDERS.

MEETING OF FEBRUARY 8, 1864.

WHEREAS, In and by a final Decree of the Court of Chancery of the State of Vermont, ordered January 19, 1864, upon petition and with the concurrence of all parties interested in the property and securities of the Vermont Central Railroad Company, it was provided that a meeting of the First Mortgage Bondholders of said Company should be called at an early day, for the purpose of choosing for the year ensuing and thereafter annually, a committee to act for said Bondholders, and advise and co-operate with the Trustees and Receivers in the management of the Trust property, and to examine their accounts from time to time and audit the same; and,

WHEREAS, It is expedient that at said first meeting the Bondholders should fix and determine when the annual meeting should hereafter be held for the election of such a committee, and also should prescribe the duties of this committee, and any other regulations which may tend to ensure an efficient organization; therefore,

Resolved, 1st, That this meeting, called in pursuance of said Decree, do now proceed to the choice of a committee of three persons, who shall each be holders and owners of First Mortgage Bonds of the Vermont Central Railroad Company, to the amount, at least, of Twenty Thousand Dollars, (\$20,000), and who shall continue in office until others are chosen, as hereinafter provided, or until they cease to be First Mortgage Bondholders to that amount, and said committee shall have power to fill any vacancy in their Board.

Resolved, 2d, That hereafter the annual meeting of Bondholders shall be held on the second Wednesday of February, in the city of Boston, at which meeting the committee for the year next ensuing shall

be chosen, after a report in detail by the Trustees and Receivers of the doings and condition of the road, as required by the Decree.

Resolved, 3d, That at the present or at any subsequent meeting, if a bond vote be demanded by persons holding twenty thousand dollars of these bonds, each bondholder shall have the right to cast one vote for every one hundred dollars of the First Mortgage Bonds held or owned by him.

Resolved, 4th, That special meetings of the Bondholders shall be called whenever the committee shall deem it necessary, or whenever First Mortgage Bondholders, representing five hundred thousand dollars of the bonds, shall, in writing, require it of the committee, and in case of special as well as annual meetings of the Bondholders, fourteen days' notice shall be given by the committee, through the Post-Office, or otherwise, to every Bondholder whose name and address may have been previously registered, and by publication of notice in two daily newspapers printed in the city of Boston.

Resolved, 5th, That it shall be the duty of the committee to act as an advisory board of direction, as directed and ordered in the Decree, hereinbefore mentioned.

Resolved, 6th, That in case of a radical difference of opinion between the committee and the Receivers, as to the management of the roads, or in case of any breach of trust on the part of the Trustees and Receivers, it shall be the duty of the committee to bring the matter, at once, to the notice of the Chancellor, and pray his judgment and order thereon.

Resolved, 7th, That it shall also be the duty of the committee, or of one or more of its members, to go over the line of the road as often as the entire committee shall think necessary, and observe its condition, the character of the employes, and generally to suggest, if possible, to the Trustees and Receivers how more efficiency and economy may be secured in the management of the property.

Resolved, 8th, That it shall be the duty of the committee to elect one of their number chairman, who shall preside at all meetings of the committee and Bondholders, and also to elect one of their number Secretary, who shall keep a book of record of all meetings of the committee, and also a like book of record of all meetings of the Bondholders.

On motion of Mr. Almon, of Salem, the resolutions were read a second time, and passed upon, *seriatim*.

MEETING OF FEBRUARY 8, 1865.

With reference to any old disputed questions in the accounts of the Trustees and Receivers, existing prior to the settlement embodied in the Decree of January 19, 1864, the Bondholders present expressed the opinion that in order to secure harmony and good feeling, the committee, acting as special masters, in closing up their examination, had better pass all the accounts of the Trustees and Receivers, according to the spirit and intent of said settlement.

MEETING OF JUNE 19, 1865.

* * Voted to proceed to the choice of a permanent committee by ballot and bond vote, covering a period referred to in the vote changing the time of electing the annual committee. * * * * * The following gentlemen were elected permanent Committee of Bondholders, for the time aforesaid:

O. W. DAVIS,
J. M. PINKERTON,
JOSEPH ANDREW.

MEETING OF NOVEMBER, 14, 1866.

On motion of J. W. Emery, it was voted that the report of the Trustees be accepted.

* * * * *

The following persons were unanimously chosen to be the Committee:

J. M. PINKERTON,
JOSEPH ANDREW.

MEETING OF NOV. 13, 1867.

On motion of Dr. Keep, voted that the report of the Trustees be accepted and printed. * * * * * The following persons were chosen to be the Committee:

J. M. PINKERTON,
OTIS DRURY.

MEETING OF NOV. 24, 1868.

On motion of M. H. Stanton, voted that the report of the Trustees be accepted. * * * * * The following persons were unanimously chosen to be the Committee:

J. M. PINKERTON,
OTIS DRURY.

MEETING OF NOV. 30, 1869.

On motion, voted that the annual report of the Trustees be accepted. * * * * * The following persons were unanimously chosen to be the Committee:

J. M. PINKERTON,
OTIS DRURY.

MEETING OF NOV. 30, 1870.

On motion, voted that the annual report of the Trustees be accepted. * * * * * The following persons were chosen unanimously to be the Committee:

J. M. PINKERTON,
OTIS DRURY.

REPORT OF THE COMMITTEE OF CONFERENCE.

The Committee of Conference appointed at the meeting of the Security-holders held in Horticultural Hall, Oct. 2, made the following report at the adjourned meeting, held Oct. 9, at the same place:

The committee appointed at the meeting held October 2d, to confer with the Trustees and Managers, have met them, and report their views as follows: It appears, by the report of the Trustees, that the floating debt, now in the form of short notes of the Trustees, unpaid bills, accounts, pay-rolls, etc., above all available assets, was, June 1, 1872, \$1,528,914 85. Of this sum about \$1,300,000 has been expended for additions to the trust property which a corporation would charge to construction account: the balance of the floating debt is attributable to the deficit which has arisen between their receipts and expenditures since they have leased the Ogdensburg and Rutland Roads. The Trustees confidently express the opinion, that the Ogdensburg Railroad will pay them a profit in the course of the year 1874; and also that the Rutland Railroad and its connections east of Lake Champlain will become of direct profit in the course of the next two years. Your committee think that it is proper to consider the deficit on the leased roads as a bonus paid by the Trustees for obtaining property and business facilities of great value to the line of road managed by them, and for removing a competition which had always been damaging, and which was on the point of becoming ruinous. The Trustees always anticipated that this floating debt, created as we have seen, \$1,300,000 for construction proper, and the balance for what we may consider as paid for obtaining valuable right and property, and therefore also for construction, would be funded; and they had hoped to carry it along without interfering with the regular payments of rent and interest till the Vermont Legislature should meet, and should in some way enable the holders of the securities to form a corporation in which this floating debt should be represented by capital.

In this they have been disappointed; first, because by their contracts they have been obliged to buy much more property of the leased roads, and a two years' supply of wood in one year; and, second, because the condition of the money market has rendered it very difficult for any one to carry a large floating debt this year. The result, as we all know, has been that the Trustees have been unable to carry the load; and a pressing necessity has arisen for immediately funding this debt. We do not see that anything has occurred to imperil or diminish the value of the property. The road and road-bed, repair-shops, equipment, and property of all the roads managed by the Trustees, we are assured, are in an exceedingly good and efficient condition, and equal to that of any railroad in New England. We are also assured that they are getting into a position to increase their income and diminish their expenses; that the contracts with the National Despatch Company have not been a source of loss to the

roads, and it is anticipated by the Trustees that the rate paid to the Despatch Company will be reduced. If this floating debt is now funded, the Trustees estimate that the future earnings of the combined roads will soon be sufficient to pay the expenses of running, the rent to all the leased roads, the interest on all the classes of bonds, except, perhaps, the second mortgage bonds. If, however, they may not be able to pay promptly the rent and interest due Dec. 1, they would issue scrip, which they would expect to soon pay off. The important and practical question is: How is this debt to be funded? The Trustees recommend that it should be funded in bonds issued by the Trustees, having thirty years to run, at eight per cent. interest.

These bonds are to be issued under a decree of the Court of Chancery of Vermont, from which the Trustees derive their appointment, which gives them power to issue \$2,500,000 thirty-year bonds at eight per cent. interest, and provides that \$700,000 of them should be left with the New England Trust Company as security for that amount of bonds due in 1875, leaving \$1,800,000 of them now to be placed, which is the amount required to pay the floating debt; and this it is which the stock and bondholders and the creditors of the Company are invited to subscribe for. The decree authorizing this issue of bonds provides as follows:—

“And it is further ordered and decreed, that the notes issued under this decree shall constitute a lien and charge upon the trust property and the earnings thereof, under the control of said Trustees and Managers; and in case said Trustees and Managers shall fail to pay said notes and interest thereon as it becomes due and payable, the holders of said notes, or any of them, may apply to the Court by petition for a realization of his or their securities, or for a summary order for the payment of the amount due out of the property or current earnings of the railroads under the control and management of said Trustees and Managers.”

It would be very desirable if the Company could receive the full par value of their bonds; but in view of the state of the money market, and the necessity of making some special inducement to subscribers, it has been determined to offer these bonds at ninety per cent., to be paid for in three installments,—Nov. 1, Dec. 1, and Jan. 1; and subscription papers have been prepared. This course, we are assured by eminent lawyers in Vermont, is permitted by the laws of that State. Your committee are impressed with the advantages which would accrue to all concerned if this property managed by the Trustees could, on equitable terms, be vested in a corporation, which would have greater facilities for meeting the growing wants of the community than the Trustees have. They are informed that this subject is under consideration by their counsel in Vermont, who have been requested to prepare the bills to lay before the Legislature now sitting, which should grant the authority. Your committee are not prepared to report on any scheme; but one under which the capital of the Vermont & Canada Company and the trust debt should be represented by preferred stock or a new mortgage, and the other securities should be fairly dealt with, they think would be for the general advantage. When the plans are further matured, they will be submitted to the various persons interested. The committee unanimously recommend that the holders of the various securities, and the creditors of the Company, should promptly relieve the Company from its embarrassments by a liberal subscription to the bonds

LEMUEL SHAW,
WILLIAM PERKINS,
E. C. BAILEY,
JOSEPH H. CONVERSE,
IVERS PHILLIPS.

The report was unanimously adopted, and measures were taken to carry out the recommendations of the committee.

At the meeting and during the day, about \$800,000 were pledged by the security-holders.

Balance Sheet, July 1st, 1873.

Of the Trustees and Managers of the Vermont Central and Vermont & Canada R. R.

Copy of Balance Sheet of Ledger to Dec. 1st, 1864, as stated by Committee of Bondholders in their Report to the Bondholders, of June 19, 1865.

WE CHARGE THEM WITH		WE CREDIT THEM WITH	
Balance in their hands as per last Report of Masters, July 1st, 1861.....	\$ 29,416 37	Liabilities of the Trustees and Receivers, as per last Report of Masters, July 1st, 1861.....	\$ 10,106 74
Debits due Trustees July 1st, 1861, as per said Report.....	72,966 23	Expenses from 1st July, 1861, to 1st Dec. 1861, Shop Stock, Oil, Waste, &c., on hand Dec. 1st, 1864.....	2,841,341 99
Cash in hands of Financial Agent and others, as per said Report, July 1, 1861.....	101,929 87	Amount paid Vermont & Canada R. R. Co., for Rent from July 1st, 1861, to Dec. 1st, 1864.....	\$ 104,259 28
Additional Accounts due Trustees, being in Suspense, as per said Report.....	16,930 61	Amount paid for Construction of Burlington Branch, Wharf, and Lake Improvements at Burlington.....	499,898 00
Shop Stock, Oil, Wood, &c, on hand July 1st, 1861.....	146,408 98	Amount paid on account of building Swanton Branch, to Dec. 1st, 1864.....	377,033 55
Earnings, from 1st July, 1861, to 1st Dec. 1864.....			290,760 16
Bills Payable.....			1,981,969 99
Earnings from 1st Dec. 1864, to 1st July, 1873.....			19,969,807 38
Vermont & Canada Stock account, 1st issue.....	250,000 00	Paid Certificates of Indebtedness.....	114,460 00
" " " 2d issue.....	250,000 00	Depots.....	96,310 81
" " " 3d issue.....	500,000 00	Trucks.....	89,289 19
Loans, 1st Equipment.....	\$ 700,000 00	Swanton Branch—Additional Expenditure.....	39,289 84
" 2d.....	200,000 00	Vermont & Canada R. R. Co. paid Rent &c.....	1,877,916 79
" 3d and 4th Equipment.....	1,000,000 00	Balance of Swanton Branch Expenditure.....	90,806 96
Stanstead, Sheffield & Chamblay.....	444,100 00	Coupons on Sundry Bonds.....	3,080,154 64
Vermont Central Guaranteed.....	94,000 00	Discount do.....	153,793 53
Income and Extension.....	1,000,600 00	Reut of Leased Roads—Rutland and Leases and Ordnanceburg.....	2,784,607 37
Script account.....		S. S. & C. R. R. Purchase.....	475,386 67
	1,917 29	Waterloo Tram R. R.....	75,818 44
		Wood, Shop Stock, Oil and Waste, on hand 1st July, 1873.....	869,199 41
	\$39,319,878 64	Cash do in Treasury at St. Albans.....	138,010 74
	14,904,961 81	do do do in Boston.....	\$ 23,081 40
Balances and Ledger Accounts, 1st July, 1873.....			99,959 34
	\$48,124,840 45	Balances and Ledger Accounts, 1st July, 1873.....	\$53,780,845 45
			14,381,019 97

WEDNESDAY, OCT. 20.—MORNING SESSION.

Judge Poland read to the Masters Col. Thorndike's explanation in regard to voucher 1861, the amount on said voucher being merely an entry for freight cash allowed Bellows Falls Station in settlement of monthly account.

Gov. Smith then read the items of a statement of earnings and expenses of the M. & Vt. Junc. Road from July, 1873, to January, 1874, the result of which showed an excess of about \$8,000 of expenses, more than the one-half of the earnings. This excess was more than accounted for by the fact that new iron had been laid on the road, and so that the price received for freight per ton per mile had been reduced. He considered that the statistics produced fully demonstrated his statement, that one-half of the earnings of the M. & Vt. Junc. Road was more than sufficient to pay the expenses of that road. During the period covered by the statement, namely, from July, 1873, to July, 1874, the expenses of that road had been kept exactly as they were incurred.

Mr. Alfred Coote re called by Mr. Fifield.

Q. What is this paper, Mr Coote? A. Balance Sheet of the Trustees and Managers of Vt. Central and Vt. & Canada, from 1st July, 1861, to 1st July, 1873.

Q. Upon what basis is that statement made? A. It is made up similarly to the report of the Committee of Bondholders in 1864, and on the same basis as the former report of the Masters, which came down to 61.

Q. Will you state whether, between December, 1864, you have embodied the report of the Committee of Bondholders, which is published under date February, 1865? A. I have.

Q. And from that time you have made up the accounting in the same manner? A. Yes, sir, from the books.

Q. And is this Balance Sheet a correct transcript from the books?

Q. Does this paper charge the Trustees with the amount of cash on hand, as found by the last Board of Masters, with shop stock and

materials on hand, and also with money received from all sources since that time down to July, 1873? A. It does, sir.

Q. And credits them, on the other hand, with all disbursements for all purposes? A. Yes, sir.

Q. Does it credit them with the amount turned over to the new Managers, and with shop stock, material, &c., on hand 1st July, 1873, as per the inventory which has been presented here? A. Yes, sir.

Q. And what is the result;—does that Balance Sheet verify the exact accuracy of your books? A. Yes, sir.

Q. And comes out to a cent during that period? A. Yes, sir.

Mr. Davenport then put in the Vermont & Canada Stockholders' Record Book, marked "Exhibit." The object in filing this book was for the purpose of showing who were the officers of that road, that is, Directors, President, &c., from 1858 to 1873, (inclusive) Mr. Davenport also wished to have it appear on the record that John Gregory Smith and Joseph Clark were, both of them, Directors of the V. C. R. R. from 1858 to 1873, (inclusive), and that John Gregory Smith was President from 1869 to 1873.

The following papers were then filed by Mr. Fifield: Balance Sheet of Vt. Central and Vt. & Canada Railroads, marked "Exhibit 45a;" also, Col. Thorndike's explanation to voucher 1861, marked "Exhibit 46a."

Hon. Levi Underwood then opened the case on behalf of the Receivers, concluding his address in the afternoon. The remainder of the day was occupied by Col. A. F. Walker, of counsel for Bondholders, in his argument.

THURSDAY, OCTOBER 21st.

Col. Walker continued his argument this morning, concluding in the afternoon. The rest of the day was taken up by Hon. C. W. Willard, counsel for Vermont & Canada R. R., in his argument. He wished it understood by the Masters that whatever findings were requested by counsel for the Bondholders he desired to concur in, whether he himself asked the same findings or not.

FRIDAY, OCTOBER 22d.

Mr. Willard concluded his argument at noon. The after part of the day was covered by B. F. Fifield, Esq., who finished his argument by evening.

Court then adjourned until October 27th.

FRIDAY, OCTOBER 27th.

Chas. N. Davenport, Esq., of counsel for Bondholders, commenced his argument this morning. Before concluding he informed the Masters that his associate counsel, Mr. Walker, desired to take some evidence in relation to the last statement put in by counsel for the Receivers, viz: Balance Sheet, (Exhibit 45a).

Mr. Alfred Coote re-called; examined by Mr WALKER.

Q. Did you prepare the Balance Sheet and accompanying Exhibits put into the case and marked "Exhibit 45a? A. Yes, sir.

Q. In making up that Balance Sheet, please state whether you took the figures for the period prior to December, 1864, from the books of the Trust or from the report of the Bondholders' Committee? **A.** From the report of the Bondholders' Committee.

Q. Did you make any verification of those figures from the books of the Trust? **A.** Not generally.

Q. Did you in any respect? **A.** I did, so far as the earnings and expenses and Swanton Branch and Vermont & Canada are concerned.

Q. The amount shown upon that Exhibit for rent paid the Vt. & Canada Road from July 1st, 1861, to December, 1864, is \$499,888. Will you please state the amount of Vt. & Canada rent paid to the same date, as shown by Exhibit 35a? **A.** \$385,112.

Q. Is there any account upon Ledger E of the Trust which shows the amount paid for building the Swanton Branch, to Dec. 1st, 1864, as being \$220,760 16? **A.** Yes, I think there is, sir.

Q. Is there any account on the ledgers of the Trust that shows the expense of construction of the Burlington Branch, wharf, &c., at the sum stated in this Exhibit? **A.** I think not, separately.

Q. Subsequent to the date of Sept. 1st, 1864, you have made, yourself, the entries from the books that are shown upon this sheet? **A.** Yes, sir.

Q. What is the total amount of payment of rent to the Vt. & Canada Road from Dec. 1864, to June 1st, 1872, as shown by Exhibit 35? **A.** \$1,427,480 00.

Q. The amount shown by this Balance Sheet as paid rent, &c., Vt. & Canada R. R., subsequent to Dec. 1st, 1864, is \$1,787,607 81. Can you state what other payments than rent are included in that item, making up the difference of about \$360,000? **A.** I cannot state without looking at the vouchers. These figures and that Balance Sheet were taken from the general account; this statement that I have is rent exclusively.

Q. Does the general account show that \$360,000 were paid to the Vt. & Canada, other than rent payments, during that period? **A.** Yes, sir.

Q. What general account have you reference to? **A.** The Vt. & Canada account on the Ledger.

Q. Is that the account which has been filed and marked exhibit 93? **A.** In part.

Q. In what part? **A.** There are two accounts on the book, one entitled "Road rent" and the other "Vt. & Canada account proper," in that balance sheet both are combined.

Q. Are there any road rent payments in exhibit 93? **A.** There appears to be.

Q. Is there not an item of \$423,717 31 on the credit side of exhibit 93 as payment for rents and incidental expenses? **A.** Yes, sir.

Q. What was the meaning of the account that was kept under the title "Road rent?" **A.** It was the amounts of interest paid to the Vt. & Canada exclusively on its stock.

Q. There is a credit upon this account, exhibit 93, of an amount charged the Vt. & Canada Road for rent, that should be road rent,

\$2,889 59—what is the difference between "rent" and "road rent" in that connection? A. None that I know of, sir.

Q. Are you able to state whether there was any cash on hand as shown by the cash book Dec. 1st, 1864? A. I think there was, sir.

Q. In this account, as I understand it, you have undertaken to bring together the receipts and payments of the Trust, in the same form of account which was adopted in the former Masters' Report and in this statement made by Pinkerton and Drury, has that been your object? A. Yes, sir.

Q. You have charged the Trustees and Managers with the total amount received from the equipment loans, the amount of the Vt. & Canada stock issue, &c., reaching a total charge of \$33,219,873 64, is that correct? A. Yes, sir.

Q. That total of course includes the preceeding entries taken from the report of the committee, and from July 1st, 1861? A. Yes, sir.

Q. You have credited them with the expenses during the same period, of operating, &c., the total amount of which is \$33,793,805 48? A. Yes, sir.

Q. Will you please state the difference between the total payments and receipts as shown to that point? A. \$573,931 84.

Q. Excess of payments over receipts? A. Yes, sir, up to that point.

Q. In making up this statement in the manner you have described as I understand the method previously adopted, the Receivers should have further have been charged with the total amount of floating debt on hand, and credited with the floating assets on hand and the balance between these two aggregates extended upon the balance sheet. Will you explain why the accounts were not continued in that form? A. To balance the sheet the ledger accounts, both debit and credit, are shown here, debit in one amount, credit in another, for which there are all the exhibits showing the different accounts which are comprised in both these accounts and it was not deemed necessary to show them all separately on this sheet—it would occupy a very large sheet of paper.

Q. Does this account show the amount of floating debt of the Trust to July 1st, 1873, other than as it is scattered throughout the ledger balances? A. No sir.

Q. (By Mr. Dennison.) Is the floating debt all included in the balance sheet, Mr. Coote? A. Yes, sir.

Q. Does it show the amount of accounts due to the Trust other than as scattered through the ledger balances? A. No, sir.

Q. The balances which you have added and which bring out the exact balance sheet equal upon both sides, are \$14,904,951.31 upon one side and \$14,331,019 97 on the other side. Are those balances contained upon the trial balances to July 1st, 1873; or do they include other items? A. They include the balances in the ledger accounts as found upon exhibit H.

Q. The first item of these balances as found upon exhibit H, which is made up of eleven sub exhibits, consists in the difference between the earnings and expenses as found upon the general balance sheet, does it not? A. Yes, sir; with the explanation of sub-exhibit No. 1.

Q. The second sub-exhibit connected with exhibit H brings over to the opposite side of the account the items which are found upon the other side of the account in relation to the Vermont & Canada and Swanton branch, does it not? A. Yes, sir.

Q. The third sub-exhibit brings to the opposite side of the account, does it not, the payments which are credited upon the general balance sheet by way of rent to the Rutland Road? A. Yes, sir.

Q. There are also brought over to the opposite side of the account, are they not, the payments which are included in the general balance sheet for coupons on bonds? A. Yes, sir.

Q. And discount on bonds? A. Yes, sir.

Q. So that for the purpose of making a balance you have transferred to the opposite side of the account these various items which I have enumerated? A. Yes, sir; because they are all on the credit side of the ledger opposite the debits, which I have given on the credit side of the balance sheet.

Q. Well, this was done, was it not, for the purpose of producing on exact balance? A. It is necessary to do so in order to produce a balance. It is necessary if you give the full debit of an account to give the full credit as well.

Q. And your object has been to bring out a sheet that should balance exactly? A. It does balance.

Q. But in order to do so you transferred the balances which existed upon the sheet as it stands down to the point to which I call your attention, to a new exhibit placing them there upon the other side of the account? A. I simply show the full debits and credits of the account upon their respective sides of the balance sheet.

Q. And the difference between the debits and credits of the correlative items of the account you transfer to the opposite side of the sheet in order to have them enter into the account to make the sheet exactly balance? A. You do not understand me, Mr. Walker. On this credit side of the balance sheet I give you full debits of the accounts represented on the ledger, on this exhibit I give the credits of those accounts which are shown by this debit side of the balance sheet. The figures on that balance sheet are taken from the ledger both debit and credit.

Q. I call your attention again to sub-exhibit No. 1, under exhibit H, which is the difference between the earnings and expenses during this whole period and which is carried into the balance upon the opposite side of the account to which the largest sum appears in the general balance sheet; is the any account upon your ledger representing that difference? A. Yes, sir.

Q. Will you please turn to it? A. It is in the Trustees and Managers account, these figures—

Q. Will you please turn to it? A. The Trustees and Managers account runs through all the ledgers. I can only show that part of it in this ledger before me. Here is the account, and in this account the earnings and expenses are debited and credited. On this ledger nothing appears but the earnings and expenses; on the subsequent ledgers a

great many other items appear which form that balance which is shown on this sheet.

Q. The balance is carried forward from one ledger to another?

A. Yes, sir.

Q. What is the final balance on ledger I? A. On the 1st of July, 1873, it was \$755,683.36.

Q. Then where upon ledger I does this balance on sub-exhibit No. 1 of \$2,812,520.60 appear? A. That is the balance that accumulated from the time that the earnings and expenses began to be entered from ledger E. That balance added to this will represent the full balance of the Trustees and Managers' account after all the earnings and expenses are deducted from it.

Q. Are not the balances carried forward from one book to another?

A. Yes, sir.

Q. Then the balance on ledger I would include the balance brought forward from the former ledger, would it not? A. Yes, sir.

Q. Then where upon the books does this entry of \$2,812,520.60 appear? A. In this Trustees and Managers' account from the beginning of it in 1861. A great many other items have been entered, both debit and credit, besides earnings and expenses. Of course taking the earnings and expenses out of this Trustees and Managers' account, it will increase the balance of the debit or credit as the case may be. As the earnings are greater than the expenses, of course taking the difference in the earnings and expenses you increase the debit balance just by the balance, by this \$2,812,520.60, which I have entered here.

Q. Then does the item now standing in that account of \$755,683.36 represent credits to that account other than earnings and expenses? A. Yes, sir, both earnings and expenses together with all the other items are represented in that amount.

Q. Does this sum shown upon sub-exhibit No. 1 appear upon the ledger? A. It will appear if you take the whole of the earnings and expenses out of the entire account, from the beginning in 1864, it will leave that balance, as I before stated. By taking out the earnings and expenses you leave just so much of the balance to provide for.

Q. Is that done in the Trustees and Managers account upon the ledger in any place? A. No, sir; those exact figures are not shown, because there are other accounts involved in this Trustees and Managers account besides earnings and expenses, etc.

Q. Is it not true that you reach that sum by subtracting the earnings from expenses as shown on the balance sheet? A. Yes, sir.

Q. And is it not true that that sum does not appear in the ledger in that form? A. Not in that form.

Q. Does it appear in separate items which added together would make that sum? A. It appears in the general account, made up of a vast number of items which are debited or credited in that Trustees and Managers account, with the earnings and expenses.

Q. Do you reach that sum in any other way than by subtracting the earnings from the expenses? A. I took the whole of the earnings and the whole of the expenses as they appear in the Trustees and Managers account and subtracted one from the other.

Q. And is that done in the ledger in any form in which you can show the figures? A. I could show the figures by taking time enough, by going through the whole of the Trustees and Managers' account for the entire time.

Q. You could show the figures of the earnings and expenses, but could you show the figures of the balance? A. Yes, sir, certainly.

Q. Will you turn to an entry upon the ledger containing some of these figures? A. On the credit side of this statement I find an amount of \$129,126 77 which by referring to the journal I find is made up of repairs to freight and passenger cars of the 1st, 2d and 3d Equipment loans.

Q. Is that in the balance between the earnings and expenses? A. It may form part of that balance.

Q. It forms part of the credits in the general accounts, does it not? A. It forms part of the credits in the Trustees and Managers' account.

Q. Is there any other balance struck upon the Trustees and Managers' account than this balance which is brought forward through the books resulting in \$755,683 36 at the end of the accounts? A. No, sir.

Q. I call your attention to exhibit F under this general balance in which you state the amount of rent paid to the Rutland Road is \$1,413,534 02 and also to sub-exhibit 3, under exhibit H, in which you state the rent of Rutland Road as \$1,443,534 02, can you explain that difference of \$30,000? A. That is an error of the clerk who made this up—he should have added \$30,000 there which I did not notice. It is correct in statement No. 3, there was \$30,000 omitted there, in these figures it should be changed but he omitted it.

Q. From what source was that \$30,000 paid? A. Paid by the Conn. River R. R.

Q. Is it in addition to the payments by the Conn. River R. R. entered on the statement as \$820,000? A. Yes, sir.

[Statement was here corrected with reference to the amount of \$30,000 above mentioned.]

Q. In this exhibit H which appears to give your various balances and ledger accounts after you have transferred to the opposite side of the account the various sums shown by the difference between earnings and expenses, viz: the payments to the Vt. & Canada and the Rutland rents and coupons and discounts on bonds; do I understand that you proceed with the ledger account from that point, as they stand upon the book? A. Yes, sir.

Q. And the first item is the result of the general ledger balance on the Vermont Central books at that time? A. Yes, sir.

Q. I observe that it does not agree with the trial balance of that date. Can you tell what items are embodied upon the two sides respectively? A. All the items which are shown as special accounts here do not appear on the trial balance sheet.

Q. Then this exhibit No. 4, which I have marked "4a" as there are two number fours, amounting to \$7,094,297 02, is the amount of liabilities of the Trust as shown upon the ledger July 1st, 1873, is it not? A. Yes, sir.

Q. And the corresponding exhibit, which is also marked No. 4 is a statement of the floating assets is it not, at that time? A. Yes, sir.

Q. The total amount being, as therein shown, \$10,870,032 79? A. Yes, sir.

Q. I call your attention to the first item upon that exhibit of floating assets, which is the one before mentioned, of the Trustees and Managers, \$755,683 36, and ask you what is included in that account? A. It might be called and its proper title would be "profit and loss account," it represents the profit and loss account on a mercantile set of books.

Q. And appearing on *this* side of the account would appear as a loss? A. Yes, sir.

Q. As there is nothing on the opposite side of the account *here* which corresponds with it? A. No, sir.

Q. Would it be possible to extract from the books the various items making up the aggregate of amounts closed into that account? A. I don't think so—it would take a long time to do so if it could be done.

Q. I call your attention to another item of statement of floating assets on the Ogdensburg Road, \$561,271 99, and ask you what that represents? A. That represents the balance of account between the Ogdensburg and Central books at that date. We keep a working account between the two roads.

Q. What do you mean by a working account? A. We treat that road the same as we do a foreign road, having a debit and credit account.

Q. For what service or payments then, have you charged the Ogdensburg Road with that amount upon this balance sheet? A. That balance results from all the varied items and includes a great deal that has been debited or credited from the opening of the Ogdensburg books after the lease was taken.

Q. Will you turn to that account upon the ledger? A. Yes, sir. Here it is.

Q. Does that account include payment of rent to the Ogdensburg Road? A. Yes, sir.

Q. What other charges appear upon that account as well as payment of rent? A. Freight and passenger repair bills, bills payable, and sundry other charges.

Q. What items of passenger account so appear; that is, how would they be entitled to a credit for a passenger account, or be charged with a passenger account when being one of the roads operated by the Trust? A. We keep with the Ogdensburg Road, as with all other connecting roads, a passenger account—debit and credit, just as with a foreign road. We credit them with our sales to them and debit them with their sales to us.

Q. Sales for tickets for transportation over that road? A. Yes, sir.

Q. And collections for freight for the same purpose? A. Yes, sir.

Q. And the balances resulting from that source enter into this general balance sheet which you have here presented? A. Yes, sir.

Q. Are they credited upon that account with the amount of rent due from the Trust to them? A. All the payments of rent which we have made are charged through this account regularly as they are made.

Q. Are they credited, then, with the amount of rent payments which they are entitled to receive under the lease? A. No, sir.

Q. (By Mr. Dennison). Those rents that have not been paid do not appear in the account? A. No, sir.

Q. With what are they credited if not with the sums of rent due them? A. They are credited with similar items as those that are charged to them from passengers, freight, bills payable, etc.

Q. Monies received upon that road for service upon this, is that your meaning? A. No, sir; you do not understand me.

Q. Well, they are credited with a freight of \$74,049.82, what is that? A. That is the proportion of freight account, June, 1873, which is their due; that is what is earned by that road for freight business for that month.

Q. Then does the item appearing upon the balance sheet represent losses upon that road by its operation? A. No, sir. That can be found by reference to the Ogdensburg books.

Q. Then what is the value of this item in the balance sheet? A. It represents just so much money due from the Ogdensburg Road to the Central.

Q. Can you collect that money? A. I suppose we can, sir.

Q. Do you understand that the Ogdensburg Road on that date owed the Central Road, or rather the Trust, \$561,000 in money? A. They did on a running account of this kind.

Q. If that is so why don't you put it into your list of accounts due from other railroads that has already been put into the case? A. Because the Ogdensburg Road had a similar account with the Central which is credited in their books and one offsets the other.

Q. Then this amount is offset by something else? A. Yes, sir, by a Central account on the Ogdensburg books.

Q. (By Mr. Davenport.) What value is that, Mr. Coote, as an asset of the Trust? A. That I am not prepared to say, sir.

Q. Then that item, whatever it is, is represented by another, which appears upon the opposite side of this balance sheet? A. Yes, sir.

Q. Is that also true of this next item upon this account "Rutland Road \$466,718 99? A. It is true of all the balances of all our own roads. The debits and credits exactly balance on that date.

Q. Then for what purpose are they included in this account? A. This sheet as I take it is not intended to represent assets—it is simply a balance sheet.

Q. Then this was not brought in for the purpose of showing the business of the road to this period but as a statement of the ledger balances? A. Yes, sir.

Q. What is represented by the account appearing upon exhibit No. 4, N. T. Co. \$302,572 32? A. It represents balance of payments made to, or on account of the N. T. Co. up to that date.

Q. Payments made to who? A. The N. T. Co.

Q. It represents monies paid and charged to the N. T. Co. up to that date? A. Yes, sir.

Q. Do you understand that this is collectable from that Company?

A. It is given as a ledger balance, and is not included in the list of assets—it is included in the list of balances.

Q. Is that the only item of payments on account of the N. T. Co. which is shown anywhere in this balance sheet, which has been presented? A. Yes, sir.

Q. Where in this trial balance do you account for the other losses upon the N. T. Co. than this sum of \$302,572 32? A. They are represented in the accounts of the business with the N. T. Co. and the different roads involved in that company, that is the lower roads and the Ogdensburg Road.

Q. That is to say where you credit yourself with the sum due from the Northern Road and the Boston and Lowell Road, etc., there is still a balance to come out from these credits of payments to the N. T. Co.? A. When the settlement of the losses is made.

Q. How long prior to July 1st, 1873, had the last settlement been made? A. I am not sure. I think in May, 1872, but I am not certain.

Q. Are not the balances charged in these accounts against the Northern Road and the Boston & Lowell Road, etc., the same balances that are carried into your list of assets which you have furnished? A. Yes, sir.

Q. Then in the list of assets showing the aggregate due from the railroad companies of \$1,550,000, there are sums still to come out therefrom of monies payable on account of N. T. matters, are there? A. Possibly. I cannot say. I am not familiar with the N. T. business.

Q. I should like to have that point determined. You furnished a detailed statement of amounts due from sundry railroads to the 1st of July, 1873, which has been marked as exhibit 101. I desire to ask you whether the first item upon that account of the Northern R. R., \$222,278.10 is subject to a reduction for the amount due at that time upon the N. T. Co. contract? A. I cannot speak definitely as to that, because I do not know whether the amounts with the N. T. Co. were made fully up to that date or not.

Q. Your impression is that the last statement was made in 1872? A. I think so, sir.

Q. And the only items of settlement in the account in your ledger balance amount to \$302,572.32, do they? A. Yes sir.

Q. And the total amount of payments above receipts have been stated as \$689,000. Now I ask you whether the difference between the \$689,000 has not to come out from this statement of sums due from sundry roads filed as exhibit 101? A. No, sir; that is not my understanding of the matter.

Q. Then in what way in this balance sheet is this difference represented? A. This balance sheet, as I take it, does not profess to show the loss that you are speaking about. It is simply a balance sheet, or what might be called a summarized balance sheet for the business of the

entire road from the 1st of July, 1861 to 1st of July 1873, as it appears on the books.

Q. It purports to show, does it not, the total payments of the Trust during that time? A. It shows the total expenditure of money.

Q. And it has been testified that the payments out of the Trust funds during that time for the N. T. Co. amounted to \$689,000; now in what way is that represented in your general balance sheet? A. All I can say is that the balance of the N. T. Co. is represented on the 1st of July as \$302,572.32 according to our books. Whatever that balance sheet may or may not represent, it shows just how the books stood at that time.

Q. Is that your understanding that there was an unsettled balance which the lower roads were entitled to, as against the sums charged on your books? A. I should say so, but I cannot tell definitely. I am not quite familiar with that matter.

Q. Can you state to what time the payments of the Rutland rents were adjusted in this balance; to July 1st, 1873? A. Up to the date of the balance.

Q. Was that so with the rent of the Ogdensburg Road, also? A. Yes, sir.

Q. What is this account which is stated as floating assets against the S., S. & C. Road, \$89,995.32? A. I think that is the working account between the Central and S., S. & C. Road; it is a similar balance to the Ogdensburg and Rutland.

Q. Is it represented by a corresponding account on balance sheet of the S., S. & C. books? A. Yes, sir, it is.

Q. This item St. Albans Foundry Co. of \$72,929 31, do you know whether at that time the St. Albans Foundry Co. had bills against the Trust which had not been brought in? A. I think they had, sir.

Q. Is the same true in reference to the item of account appearing here against the St. Albans Iron & Steel Works of \$40,000? A. I think so, sir.

Q. Are you able to state whether the balance as a whole at that time was in favor of the Trust or against it? A. That I cannot say, sir.

Q. You have given as one item of this account the sum of \$1,066,774 33 under the rent of leased roads; what is that amount? A. That represents the rents of the leased roads—the Ogdensburg and the Rutland.

Q. There is an amount here for rent of leased Roads \$2,784,607 37, is the former amount included in that? A. Yes, sir.

Q. What are the credits appearing in the account rent of leased roads, on page 407 of ledger I? A. Simply the adjusting of the entry. The debit charged to this account were not made correctly, and they are adjusted by these credits, as you can see by referring to the journal.

Q. One of these credits is \$320,516 69 and the other \$990,899 75.

Witness;—I will read the journal entry if you require it.

The chairman—Read it if you please.

Witness reads the entry:—

"Rent of Ogdensburg & Lake Champlain Road, credited to the B. & L. R. R. and Northern R. R. as per journal H, pages 289, 369, 472, and journal I, pages, 195, 422, 432.....		\$907,703 27
To transfer credits made in error to O. & L. C. R. R. acc't per journal I, pages 29 and 282.....		83,196 48
		<hr/> \$990,899 75

Q. You have also an account against the Vt. & Canada R. R. of \$439,504 14. Does that represent anything that appears on the other side of your balance sheet? A. That is the debit balance of the account at that date, sir.

Q. Will you please turn to that account on the books? A. Here it is, sir.

Q. Then it offsets, does it, the \$500,000 of stock which was issued by the Vermont & Canada to the Trustees and Managers in 1871? A. Yes, sir; \$500,000 is to offset the balance.

Q. And there is still remaining a balance of \$60,495.86 of that stock? A. That amount is a credit to the Vermont & Canada, according to the books representing that amount of stock which has been issued for which there has been no corresponding charges upon the books.

Q. Do you know of any debit entry that is to be made against it? A. I have no personal knowledge of any.

Q. Are there many of these accounts against which there are credits that have not been entered;—for instance, accounts like the accounts against Linsley and Appleton, R. T. Bailey and others? A. A good many of these accounts have got to be settled.

Q. Now, Mr. Coote, from this statement will you please tell us how we can ascertain the amount of the floating indebtedness and of the floating assets to July 1st, 1873, and see the balance for or against the Trust up to that date? A. I think the statement of the liabilities as well as the statement of assets have been filed; it was made up by Mr. Wilbur to that date.

Q. Then why in making up your general account, 45a, instead of wandering off into these balances, did you not carry it out in a manner in which every account has been made up by charging the Trustees and Managers with their floating debt, crediting them with assets and accounts due to them, and showing the balance? A. It was a balance sheet that I was requested to make, and I did so to the best of my ability.

Q. I understood you to testify at the beginning of this examination that you were requested to and did state the account in the same manner that it had been stated on the last accounting? A. Yes, and I have done so.

Q. How can we tell from the account what represents the items of the floating debt and assets as they are carried in? A. By reference to the balance sheets you will find all those items.

Q. Are they not included in the long balance sheets of page after page of items, some of which mean something and some do not, in re-

gard to which you have testified? A. They are all included in those sheets.

Q. Referring to that sheet, Exhibit No. 4, showing \$10,870,032.79, can you tell the Masters any way in which upon that sheet they can ascertain what assets are valid assets of the Trust that are turned over to their successors? A. By going over all the items and picking them out.

Q. How can they ascertain which should go in as assets? A. I am not prepared to say.

Q. In the account stated by Pinkerton and Drury down to 1864, where does the amount of cash on hand at the termination of that period appear? A. I do not see any such entry, sir.

Q. In what department of this account is included the sum which the Trust realized for the sale of Pullman Palace cars, \$50,000, in 1871? A. That I think is a credit to shop stock account and appears in that account.

Q. Are you sure as to that? A. I am not positive; I think so.

Q. In your account of earnings, please state whether car-service is deducted before the earnings are entered in the books? A. The earnings include car service.

Q. Under what items of expense does car service appear? A. If a credit it is in the earnings, if debit it is deducted from the earnings.

Q. If it is a debit, the truth is that the amount of earnings is entered so much less, is that it? A. Yes, sir.

Q. Is that the case in relation to such commissions as you pay to other roads for their business, or are they included in the operating expenses? A. I think they are deducted from the earnings before their return to us.

Q. Are there any other sums that are deducted besides car service and commission? A. I think over charges are deducted.

Q. Does the Secret Service money appear in this statement? A. No, sir, because it does not appear in the general books from which that statement is made up.

Cross-Examined by Judge POLAND.

Q. This balance sheet that you have made correctly represents the state of the books, and is made up from them entirely, is it? A. Yes, sir.

Q. The object of making it up was simply to verify the accuracy of the books? A. That was the object, sir.

Court then adjourned until next day, 28th inst.

THURSDAY, 28TH INST.

Mr. Davenport continued his argument this morning and finished at noon. Judge Poland, in the afternoon, argued his cause, but as he had not finished at the usual time for adjournment for the day, he

decided to occupy the remainder of the evening. The Masters then took a recess for one hour, and at seven o'clock Judge Poland resumed his argument, concluding at half an hour after midnight.

The requests on both sides being so numerous, it was understood that counsel should have them printed for the benefit of the Masters.

The accounting then terminated.

RUTLAND, } I, Aldace F. Walker, on oath say that the foregoing
 ss. } volume contains the testimony before the Masters as
 therein set forth, and as furnished by a stenographer, and printed for
 use of the parties to the proceeding.

Subscribed and sworn to before me, this 9th day of July, 1877, at
 Rutland, in said County.

M. J. FRANCISCO,
 Notary Public.



ERRATA.

- e 2, tenth question, read \$4,500.
- 33, For answer to sixth question, read "Yes, unless the Masters so order."
- 37, Answer to question seven, for "consideration" read "consultation."
- 76, Last question on page, for building read "running."
- 77, Twenty-second line, for Government read "English."
- " Twenty-fourth line, read [\$40,880.87.]
- 79, Fourth question, for \$100 read "\$1,000."
- 80, " " for "provided for," read "carried out."
- 81, Last line, for "we" read "they."
- 82, Line forty-five, after paid read "by."
- " Omit first part of last question on page.
- 85, Third question, after Roads, read "for the bridge at Rouses Point."
- 84, Twelfth question, for construction read "constructive."
- 85, Twenty-eighth line, for wavering read "waiving."
- " Twenty-ninth line, for "from" read "for."
- 87, Twelfth question, omit first part of.
- 94, Eleventh question, for 1873 read "1872."
- 95, First question, for "\$85,000 bonds" read "\$35,000 interest on bonds."
- " Fourth question, for contributed read "construction."
- " Ninth question, for reserve read "receive."
- 100, Thirty-eighth line, for "there" read "they are."
- 121, Thirty-eighth line, for amounts read "accounts."
- 134, Second question after voucher 1930, read "\$124.72;" after voucher 3992, read "\$153.33."
- 157, First question, for "rails" read "wheels."
- 159, Fifth question, for "general" read "journal."
- 160, Fourteenth question, for "to" read "by."
- 162, Last question, for Supt. read "most of them."
- 165, First line, for \$400 read "\$4,000 per year."
- 167, Sixth line, for "I" read "He."
- " Thirty-fourth line, after \$1000 read "to be."
- 169, Voucher 1900, amount should be \$409.82.
- " " 1554. " " \$209.58.
- " Twelfth question, for \$1,842.50 read "\$18,062.50."
- 170, Fourth line, for \$1,786.80 read "\$7,786.80."
- " Fifth question, for charged read "a charge of."
- " Tenth question, for \$100 read \$1,000.
- " Twelfth question, for \$88 33 read \$83.33.
- " Thirteenth question, before the word Bonds read "Income and Extension."

- Page 171, Twenty-seventh line, after given read "up."
- " " Third question, for \$1,201.90 read \$11,691.70.
- " 172, Third question, for three read thirty.
- " 174, Eleventh line, for argued read agreed.
- " " Seventeenth line, after Vermont read 1870.
- " " Twenty-first line, omit "of V. & I. C. Co."
- " 185, Fourth question, for Stanbridge read Shefford.
- " 187, Sixth question, for \$44.07 read \$46.07.
- " 190, Twentieth line, read \$464,717.96.
- " 192, Fifth question, after Wilson read \$100.
- " 193, Sixth line, after Mr. Clark read "as clerk of."
- " 194, Eighth question, amount of voucher 8371 should be \$579.75.
- " 194, Sixteenth question, voucher 8088, should be for \$84.50.
- " 197, Voucher 7219 should be \$661.21.
- " 199, Fifth question, voucher 2077, should read for "Dewey & Noble"
- " 208, Fourth question, for \$500.000 read "\$50,000."
- " 211, Tenth question, for \$43.15 read "\$430.15."
- " 218, Third question, voucher 791, for "at the Legislature," read "in
Legislature."
- " 219, Eleventh question, voucher 8922, should read "\$1,120.58."
- " 229, Fifth line, for \$15,000 read "\$1500."
- " 230, Eleventh line, for P—— read "Perrin."
- " 278, The thirteenth question commences the cross-examination of
Hale.
- " 299, On twelfth line after car, read "stock;" also on same line, re—
"August 15th."
- " 299, On twenty-fourth line, for January read "June."
- " 299, On twenty-fifth line, for "for," read "from."
- " 300, The remark at the top of this page is erroneous, and should be en—
cluded.
- " 302, Seventh question, for collection read "calculation."
- " 309, Third question, instead of did you report to your engineer, res—
"did your engineer report to you."
- " 310, Sixth question, for dispensable read "disadvantage."
- " 321, The last questions on this page *repasses* were asked directly of t
Masters by Mr. Davenport.
- " 361, In the last question, for these read "National"
- " 363, Seventh question, for \$8.476 read \$689,843 19. For 1872 read "
- " 400, Fourth question, for twenty read "ninety."
- " 411, In last question after purchased them, read "of the legal opini—
- " 442, For \$15,000 read "\$1,500."
- " 488, After for the western division, insert "for maintenance only."
- " 467, Fourth line, for base read "lease"
- " 503, In reply to question who owns those debentures, &c., read "I
know," instead of "I do."
- " 515, Strike out "as they appear in the appendix of the Invest
Committee's report."
- " 525, Strike out "not" after "Supreme Court was."
- " " For 1₁₀ read 1₁₀.

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REPORT

— OF —

SPECIAL MASTERS,

IN THE CASE OF

VERMONT AND CANADA R. R. CO.

VS.

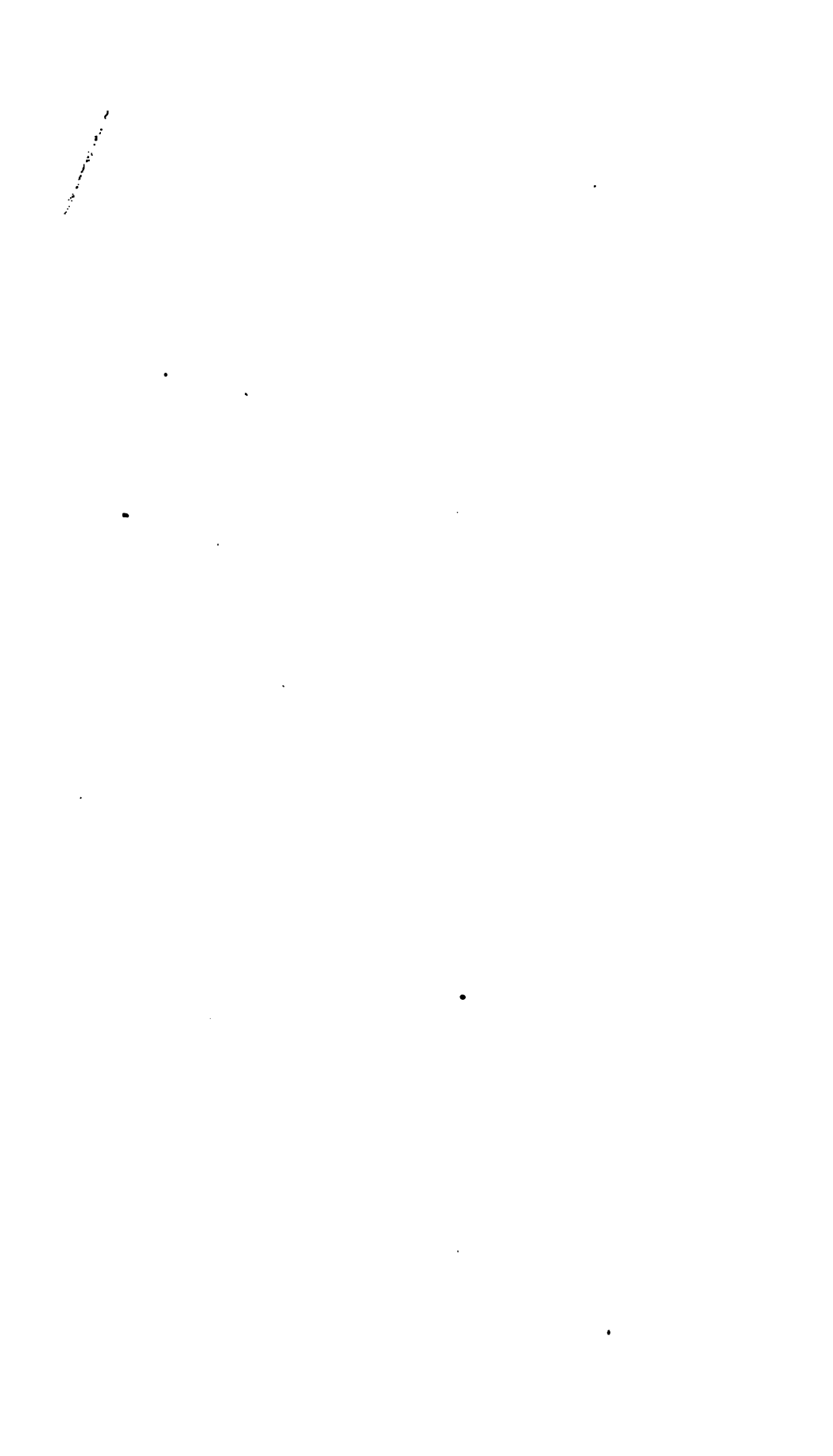
VERMONT CENTRAL R. R. CO.

AND OTHERS.

FILED APRIL 24, 1877.

ST. ALBANS, VT.:
ADVERTISER PRINT.
1877.

J^K



REPORT.

VERMONT & CANADA R. R. CO.

vs.

VERMONT CENTRAL R. R. CO.

AND OTHERS.

FRANKLIN COUNTY.

IN CHANCERY.

To the Hon. Court of Chancery in and for the County of Franklin :

The undersigned Masters beg leave to report that J. Gregory Smith, Joseph Clark, W. C. Smith, Benjamin P. Cheney and Lawrence Barnes, Trustees, and Managers of the Vermont Central and Vermont & Canada Railroads, acting as such under the orders of the Court in the above entitled cause, having filed in Court their accounts as such Trustees and Managers, as well as the accounts of their predecessors in said Trust, and the said Vermont & Canada Railroad Company, by their solicitor, A. G. Safford, Esq., having filed in Court objections to said accounts, and said Trustees and Managers having duly petitioned said Court, requesting that a board of Masters be appointed to examine and audit said accounts and report thereon to the Court, and the undersigned having been appointed Special Masters to examine and audit said accounts and make report thereon to the Court of Chancery for Franklin County, and due notice having been given to all parties interested in said matter, the Masters met the parties in interest with their counsel at the Receivers' room in St. Albans, on the 21st day of July, A. D. 1875, at 10 o'clock in the forenoon, to hear the matters to be submitted to them.

Hon. L. P. Poland, Hon. Levi Underwood and B. F. Fifield appeared for the Trustees and Managers.

Hon. C. W. Willard and E. A. Sowles appeared for the Vermont & Canada Railroad Company.

C. N. Davenport, Esq., appeared for Rush C. Hawkins, of New York, Austin Burchard, of Newfane, and others, holders of 1st and 2d mortgage bonds.

A. F. Walker, Esq., appeared for William Sohier, defendant in the cause and holder of 1st mortgage bonds.

X A. G. Safford, Esq., appeared for F. A. Brooks and others, holders of 1st and 2nd mortgage bonds, but during the progress of said hearing withdrew his appearance for said Brooks. - *See Encl. 10373*

Hearing was had before the Masters from time to time to suit the convenience of the parties till the 29th day of October, 1875, when it was fully completed.

Counsel for the Vermont & Canada Railroad Company, and 1st and 2d mortgage bondholders, filed with the Masters during the hearing sundry exhibits, numbered from 1 to 108 inclusive, and the same are referred to and made a part of this report.

The records of the Court of Chancery in this cause are also referred to and made a part of this report.

The Vermont & Canada Railroad Company's records are also referred to and made a part of this report.

All the records in the cause are referred to and made a part of this report.

Counsel for the Trustees and Managers also filed sundry specifications and exhibits during the hearing, numbers 1a to 49a inclusive, among which is a book containing the decrees of the Court of Chancery in this cause, also the Vermont & Canada Railroad Company's records.

Number 38a is a letter from H. Fairbanks, used as evidence by agreement of the parties, and is not treated as an exhibit.

Number 46 is also a letter, used in the same manner, and is not an exhibit.

Counsel for the Trustees and Managers also filed with the Masters sundry papers, which are designated by their filing as follows: No. 1 with Exhibit H; No. 2 with Exhibit H; No. 4a with Exhibit H; No. 4 with Exhibit H; No. 5 with Exhibit H; No. 6 with Exhibit H; No. 7 with Exhibit H; No. 8 with Exhibit H; No. 10 with Exhibit H; No. 11 with Exhibit H.

Exhibit "A," balance sheet, Trustees and Managers of Vermont Central and Vermont & Canada Railroads, 1st of July, 1875.

Exhibits B, C, D, E, F, G and H, being balance sheets of Trustees and Managers Vermont Central and Vermont & Canada R. R., 1st of July, 1873, and filed in the manner of Exhibit "A."

Counsel for Trustees and Managers also filed with the Masters all the accounts they had previously filed in the Court of Chancery in this cause, with the written objections thereto which had been filed in the Court of Chancery, and all said papers are referred to and made a part of this report.

The Bondholders Records are also referred to and made a part of this report.

The Charter of the Vermont Central Railroad Company and the Charter of the Vermont & Canada Railroad Company, and the Acts of the Legislature in amendment thereof or in addition thereto, as well as all general Railroad Laws of the State touching railroad corporations, and the Statutes relating to the powers and duties of the Trustees, Receivers and Managers of railroad property are also referred to and made a part of this report.

First and 2d mortgages are also referred to and made a part of this report and also the records of the Vermont Central Railroad Company may be referred to and the same are made a part of this report.

All deeds of surrender to Trustees are also referred to and made a part of this report.

At the commencement of the hearing before the Masters, the counsel for the Receivers and Managers requested the counsel appearing for the Bondholders to give the names of those Bondholders for whom they respectively appeared, also the amount of bonds each Bondholder for whom they appeared owned.

This they declined to do.

The accounting covers the period from July 1st, 1861, to July 1, 1873.

The Charter of the Vermont Central Railroad was granted in 1843, and the same may be found in the printed volume of Charters, Decrees and Leases, pages 3 to 10 inclusive.

About this time the Rutland & Burlington Railroad was chartered, both charters having their termination at Burlington.

Each of these corporations asked for an independent charter north.

These corporations were in conflict in relation to the extension north-erly and the result of their complication was the granting of the Vermont & Canada charter in 1845, and the same may be found on pages 11 to 18 inclusive in the printed volume of Charters, Decrees and Leases.

An amendment to that charter was made in 1847 and another amendment was made in 1859 and may be found on pages 18 to 20 of the same volume.

The original charters of the Vermont and Canada Company give a right to build a railroad from some point in Highgate on Canada Line, thence through the village of St. Albans to some point or points in Chittenden County most convenient for meeting at the village of Burlington, a railroad to be built on the route described in the act to incorporate the Champlain and Connecticut River Railroad Company, and to some point

or points in Chittenden County most convenient for meeting a railroad to be built on the route described in the act to incorporate the Vermont Central Railroad Company and with the right and for the further purpose of extending a railroad from any point in the aforesaid route to some point on the western shore of Grand Isle County, passing across the sand bar to South Hero, as the said Company might thereafter designate.

And it was further provided in and by said charter, that if said Company should not within five years commence the construction of the road, and should not within thirteen years complete and put in operation said road connecting the railroads to be built by the Champlain and Connecticut River Railroad Company and by the Vermont Central Railroad Company with Canada Line, then said corporation should cease and said act should become void.

The act of 1847 amending said charter is as follows:

"So much of the first section of the act to incorporate the Vermont and Canada Railroad Company, approved October 31st A. D. 1845, as is expressed and contained in the words, 'passing across the sand bar to South Hero,' is hereby, by consent of said Company, repealed."

The original charter contemplated a connection with the Ogdensburg Railroad across what is termed the "Sand bar" in the town of Colchester, and it so remained till 1847, when the Vermont & Canada Company made their application to the Legislature for the right to bridge the Lake at Rouse's Point, which application was stoutly contested by the Rutland & Burlington Railroad Company.

During the session of the Legislature of 1847, and pending the discussion of the right to bridge the Lake, a bill was introduced to amend the charter of the Vermont and Canada Company by striking out the words "passing across the sand bar to South Hero," and the act as passed is above referred to.

The effect of this amendment was to give the Vermont & Canada Company the right to connect with a railroad in New York or on the east shore of Lake Champlain.

The Legislature refused to pass the bill granting the privilege of bridging the Lake.

Under this amended charter the Vermont & Canada Road was surveyed and constructed to West Alburgh, and the right to bridge the Lake was obtained under the general statute regulating the rights of riparian owners.

The Company were compelled to bridge the Lake so as not to interfere with the navigation of the Lake.

The Vermont & Canada Road was completed under an arrangement with the Vermont Central Company, who stipulated an annual rental of eight per cent. upon the cost of the road, and by this arrangement the money was obtained to build the Vermont & Canada Road. And it being in the interest of the Vermont Central Company, as well as it was supposed to be for the interest of the Rutland & Burlington Railroad that this connection should be made with the Ogdensburg Railroad, which was being built contemporaneously. The Vermont & Canada Road was built so as to make a connection at Rouse's Point; the Ogdensburg Road meanwhile changing its location from Plattsburgh to Rouse's Point and thus the line was established.

In view of the stipulation above mentioned, the Vermont & Canada Railroad Company leased their Railroad to the Vermont Central Railroad Company on the 24th day of August, A. D. 1849, which lease may be found in the printed volume of Charters, Decrees and Leases, on pages 21 to 25 inclusive. And said lease was amended on the 11th day of January, A. D. 1850. And additional articles were incorporated in said lease on the 9th day of July, A. D. 1850. And said amendment and additional articles may be found in the same volume, pages 25 to 30, inclusive.

By the additional articles above referred to, it is provided among other things, that if at any time or times before the said Vermont & Canada Railroad shall be purchased as mentioned or provided for by the original lease, the rent therein reserved should be and remain in arrear, and unpaid for the space of four months after the same shall be payable, it shall be lawful for the said Vermont & Canada Railroad Company to enter or take possession of and use and run not only the said Vermont & Canada Railroad, but also the said Vermont Central Railroad, together with all lands, depots and other property, rights and privileges then owned and enjoyed by each of the aforesaid companies, and used in connection with or for the purpose of running or working each of said Railroads. And having thus entered, it shall be lawful for the said Vermont & Canada Railroad Company to receive all tolls, fares and other lawful income receivable for the use of said railroads, and after paying therefrom all reasonable expenses of running and working the said Railroads and of making all such repairs of each of the said railroads or any buildings or structures connected therewith or used therefor. And also the cost of all such engines, cars and other furniture as may be found necessary during the time or times such roads shall be so worked and run as last aforesaid, the said Vermont & Canada Railroad Company shall apply

the residue of its said receipts in and toward the payment of all rent then in arrear and unpaid, whether the same shall become payable before or during the time while so in possession as last aforesaid; and when as soon as the same shall be paid in full by means of the net receipts aforesaid, or by the Vermont Central Railroad Company, then notice thereof shall be given by the said Vermont & Canada Railroad Company to the said Vermont Central Railroad Company, and thereupon or without such notice, the last named company shall have the right, and it shall be its duty to resume possession and control of both said railroads, in the same manner and with the same rights and subject to the same duties as before such entry by the said Vermont & Canada Railroad Company.

And it was further stipulated in the said additional articles, among other things, as follows:

"To remove all doubt as to the meaning of the parties to the foregoing articles, (meaning the articles in the original lease,) it is hereby declared that the rent to be paid under the foregoing article is eight per centum per annum on all sums expended from time to time by the Vermont & Canada Railroad Company, for the cost of their said road, which per centum is to be reckoned upon such sums from the time when the same shall be paid."

And in and by said additional articles it was further provided, as follows:

"And it is further mutually agreed, that in case it shall hereafter become necessary for the Vermont & Canada Railroad Company, in order to comply with the requisitions of their charter, to extend their road into the village of Burlington, or to any other point or points, by any route now located or which may be hereafter located, the said Vermont & Canada Railroad Company agree to grant, lease or demise and so far as they have present legal authority, do hereby grant, lease and demise unto the said Vermont Central Railroad Company, their successors and assigns, the portions of their road which may be so hereafter built, subject to the same conditions, restrictions and privileges as are contained in the foregoing articles, and that the said Vermont Central Railroad Company will accept the same when built, and will pay the same rent therefor, and in the same manner and upon the same terms and with the like remedies for non-payment as is heretofore specified in these articles:

And it is hereby further mutually agreed that the Vermont & Canada Railroad Company will appoint such person or persons as the Vermont Central Railroad Company shall designate, as agent or agents

OF the construction of such addition or additions as may be deemed necessary to be hereafter built, as aforesaid."

Meantime the Vermont Central Railroad Company constructed their road from Essex Junction to Burlington in a manner claimed by them to be a substantial compliance with the provisions of the charter, to make a connection with the Rutland & Burlington Railroad at Burlington.

The road, as originally located, ran through the village of Burlington, after it crossed the Winooski River, in a very circuitous route, something like the letter S, crossing all the principal streets, running east and west, and coming into Burlington on a line parallel with the Rutland & Burlington Railroad, so that the Rutland & Burlington Railroad had no outlet and no connection with the Vermont Central unless it followed this circuitous route through the village of Burlington.

The Rutland & Burlington Company complained that passengers could not pass through without changing seats, and altogether it was an unsatisfactory connection with that road.

The question rested, however, upon a technical compliance with the charter.

The connection in this manner led to a severe controversy between the Rutland & Burlington Railroad of the one part and the Vermont Central and Vermont & Canada of the other part.

This controversy continued for a number of years.

On the 20th day of October, A. D. 1851, the Vermont Central Railroad Company placed a first mortgage upon their said road amounting to \$2,000,000, and issued their obligations secured by said mortgage to that amount for the purpose of relieving said road from its pecuniary embarrassments, and finishing the road and paying for the necessary equipments of the same; said obligations to be payable in ten years and to bear seven per cent. interest, payable semi-annually.

This mortgage and deed of trust was executed to William Amory and Charles O. Whittemore, of Boston, in the State of Massachusetts, and John Smith, of St. Albans, Vermont, who were appointed by the Directors for such purpose.

This mortgage covered the line of road from Windsor to Burlington, Vermont, together with all the locomotives, engines, passenger, freight, dirt, hand and other cars, and all the other personal property belonging to said Company, subject, however, to all the rights and privileges which the Vermont & Canada Railroad Company have in and to the above granted premises, as contained in the several indentures between the said Vermont Central Railroad Company and the said

Vermont & Canada Railroad Company, severally dated the 24th day of August, A. D. 1849, and the 11th day of January, A. D. 1850, and the 9th day of July, A. D. 1850.

Said notes or obligations, by the terms of said mortgage, were to bear date the first day of November, A. D. 1851, and payable on the first day of November, A. D. 1861, and entitled to interest at the rate of seven per cent. per annum from their date, payable semi-annually, the first payment of which to be made on the 1st day of May, A. D. 1852, and both principal and interest payable at the office of the Treasurer of the Vermont Central Railroad Company, and for greater particularity in relation to the stipulations of said mortgage, the same is referred to and may be found in the printed volume of Charters, Decrees and Leases, pages 31 to 36 inclusive.

On the 20th day of May, A. D. 1852, a second mortgage was placed upon the Vermont Central Railroad for \$1,500,000 to secure the payment of notes or bonds issued by the Vermont Central Railroad Company to that amount. Said notes or bonds to bear date the 1st day of July, A. D. 1852, and payable on the 1st day of July, A. D. 1867, and entitled to interest at the rate of seven per cent. per annum from their date, payable semi-annually, the first payment of which to be made on the 1st day of January, A. D. 1853, both the principal and interest to be payable at the office of the Treasurer of the Vermont Central Railroad Company.

This mortgage was executed to H. H. Hunnewell, W. H. Greger-son and Robert C. Hooper, of Boston, Massachusetts, as Trustees therein, and covering the same property covered by the first mortgage above named, subject, however, to all the rights and privileges which the Vermont & Canada Railroad Company have in and to the above granted premises, as contained in the several indentures between the said Vermont Central Railroad Company and the said Vermont & Canada Railroad Company, severally dated the 24th day of August, A. D. 1849, and the 11th day of January, A. D. 1850, and the 9th day of July, A. D. 1850, and subject further to the 1st mortgage upon said property as above named.

And for greater particularity in relation to the stipulations in said mortgage, the same is referred to and may be found in the printed volume of Charters, Decrees and Leases, pages 37 to 44 inclusive.

The respective deeds of surrender to the Trustees, respectively mentioned in said mortgages are referred to and may be found on pages 45 to 54 inclusive of the same volume.

The Vermont Central Railroad was built under a spirit of high rivalry with the Rutland & Burlington Railroad, and carried forward with great rapidity and begun to be operated when in a very imperfect state of completion.

The Vermont Central Railroad Company became embarrassed soon after the execution of the second mortgage, and in 1854 its property was attached—engines, cars, &c.,—by its creditors, among whom and principally were its contractors, and it became evident to the Managers and Directors of said road that unless some course could be adopted the road must stop operation.

At that time there was no default upon the first mortgage.

Under the advice of counsel the Vermont Central Directors surrendered their road as a means of protection to the Trustees of the first mortgage bonds, who at once took possession and assumed to pay all debts, and did relieve the attachments that were then on the property to a certain extent.

This course led to a compromise with the creditors, by which a portion of them waived their attachments.

It was then thought that it would be safe for the corporation to resume the management of the road and relieve the Trustees.

Application was thereupon made by Governor Paine, then President of the road, to the Trustees to surrender back the property.

This the Trustees were inclined to do, but immediately there followed a remonstrance signed by a very large proportion of the bondholders in Boston, claiming that it was unsafe to do this while these debts of the corporation were still outstanding. They claimed it would lead to further complications.

Thereupon the Trustees, in obedience to the wish of the *cestui qui* trust, declined to surrender the road.

And at that point commenced a litigation which afterwards proved very disastrous to the property itself.

A bill in Chancery was at once brought by the Vermont Central Railroad Company against the Trustees, to recover possession of the property, and the cordial relations and good will which had existed between the Trustees and the then Board of Directors of the Vermont Central Railroad was thereby disturbed.

This suit in Chancery led to other proceedings of a hostile character.

The second mortgage bondholders came in and claimed that as they were the most remote security holders, they were entitled to the possession of the road instead of the first mortgage bondholders.

A great many suits followed, and the Trustees became exceedingly embarrassed in consequence of this litigation, and the bad condition of the road from the imperfect manner in which it had been constructed, whereby its operating expenses were greatly increased.

Up to this time the Vermont Central Railroad Company had paid the interest due to the Vermont & Canada Railroad Company, provided for by the lease above referred to, at the rate of eight per cent. per annum on the then cost of the Vermont & Canada Railroad, but in consequence of the embarrassments above alluded to, the Vermont Central Railroad Company were compelled to default in the payment of the Vermont & Canada rent falling due December 1st, 1854.

Thereupon the Vermont & Canada Railroad Company brought their bills in Chancery, claiming the payment of their rent, or their remedy under the lease, to wit: The possession of the Vermont Central and the Vermont & Canada Roads, and therein praying for the appointment of a Receiver, to hold the property of the road until their rents could be obtained, if the Court declined to give them possession under the terms of the lease.

Upon a hearing of the case, the Court appointed the Vermont & Canada Railroad Company themselves as Receivers, but declined to put them in possession of the road according to the stipulation in the lease.

The Court further ordered and directed that the funds arising from this operation of the roads, over and above enough to pay operating expenses, should be held by said Receiver subject to the future order of the Court.

Whereupon, some of the first mortgage bondholders themselves appeared in Court, and asked leave to file their answer contesting the validity of said lease and the right of the Vermont & Canada Company to hold a prior claim upon the income of the Vermont Central Railroad, whereby the validity of said lease was put in issue.

At this stage in the proceedings, the second mortgage bondholders joined in said bill, raising the same question, and also another question, as to the right of the Trustees of the first mortgage to hold possession of the road as against them.

Meantime there was a great variety of suits pending, touching the property of these roads, some of them in the State Courts and some of them in the United States Courts, involving said roads in a most expensive litigation.

There was also a disagreement among the Board of Directors of the Vermont & Canada Company; what was called the "Boston Wing," disagreeing with what was termed the "Vermont Wing."

The result was that said Board of Directors were unable to agree upon any line of policy, and therefore in 1856, the Court of Chancery removed them as Receivers and placed the Trustees of the first mortgage—who were in possession at the time said bill in Chancery was brought—in possession again, in the new position of Receivers and Managers.

This proceeding revived the question as to the right of the Trustees of the first mortgage to hold the property, and brought in the Trustees of the second mortgage as claimants for the possession of the property.

In consequence of the disagreement in the Board of Directors of the Vermont & Canada Company, issues were raised in Vermont as to the rights and interests of the State in these roads under the charter, and a hostile and bitter feeling was thereby occasioned.

Meetings were held in Boston, and the Trustees indignantly denounced.

Bills in equity were pending in the United States Court and in many counties in the State Courts, hearings before the Court oftentimes occurring on the same day, in different counties, touching applications to the Court of Chancery upon various subjects in relation to said property.

The Trustees held their position as Receivers until 1858, and the property depreciated very much while in their hands.

Their appointment as Receivers was regarded in the light of a purely technical Receivership—merely to hold the property together, pending these controversies, with no power to define a line of policy for its future growth and development.

In 1857 the Directors of the Vermont & Canada Company were changed by the removal of those who had been, up to that time, the managers of that corporation here in Vermont, and putting in a new Board.

A new President was also elected, up to that time, John Smith, Lawrence Brainerd, Joseph Clark and President Wheeler of Burlington, had been Directors of the Vermont & Canada Company.

By this movement in 1857, they were turned out.

At this time the thirteen years in which the Vermont & Canada Company were required by the charter to build their road, was about expiring.

The charter was granted in 1845, so that the limitation would expire in 1858.

Previous to the Vermont Directors of the Vermont & Canada Company being turned out, as above detailed, they had been in negotiation with the Rutland & Burlington Railroad Company, to see if some basis

of harmony could be arrived at, by which an improved connection with the Rutland & Burlington Railroad could be secured without further trouble, and in the hope that a favorable settlement of that matter would restore harmony between the two roads.

In furtherance of this object, a meeting was held at Burlington, at which were present Judge Smalley, then President of the Rutland & Burlington Railroad Company, Mr. Thatcher of Boston, who was one of the Directors of said Company, and one of the Trustees of the mortgage of that road and one of its managers, and Mr. E. A. Chapin, Superintendent; Mr. John Smith, who was then President of the Vermont & Canada Railroad Company was also present.

This meeting was held for the purpose and with a view of coming to some conclusion with regard to the question of the connection at Burlington, and thus prevent the forfeiture of the charter, which the Rutland & Burlington Railroad Company threatened and were determined to accomplish if they could, and get an independent charter upon the line they had surveyed and reported favorably upon to Canada line in the town of Highgate, and thence over the line upon which the Montreal & Vermont Junction Railroad is now built, that being the favorable line of the Rutland and Burlington Railroad.

The diversion of the line to Rouse's Point by the Vermont & Canada Company, was one of the causes of complaint by the Rutland and Burlington Railroad Company. In consequence of the diversion to Rouse's Point, the Rutland and Burlington Railroad Company surveyed their line from Burlington along the shore of the lake, following along west of the located line of the Vermont & Canada road, and between that and the lake, and crossing the location of the Vermont & Canada road at Swanton, and thence to Canada line to connect with a road that should be built from Canada line at Highgate to Montreal.

A result was obtained in the negotiation with Judge Smalley, Messrs Thatcher and Chapin, by which it was agreed that the Vermont Central Railroad Company should abandon their road from the Winooski River to the lake, along the circuitous route above named, and build their road through what was then known as the "Sand Bank," so as to make a direct connection and enter Burlington on a line with the Rutland & Burlington Railroad, so as to give the Rutland & Burlington Railroad a continuous line.

In this negotiation the Vermont Central Railroad Company were also to pay certain expenses which the Rutland & Burlington Railroad Company had been at in their efforts to protect their line.

This negotiation involved some legislation, and some amendment of the charter.

The road could not be completed by the time limited by the charter, which rendered it necessary to apply to the Legislature for an extension of time, and preparation was being made to do that when the change in the Board of Directors of the Vermont & Canada Railroad Company took place as above stated.

The change was made at Boston. Mr. Parrott was made President and the Boston interest entirely controlled the road, and the negotiations above named were entirely broken up.

Mr. Parrott refused to recognize the right of the Rutland & Burlington Railroad Company to demand that this arrangement be carried out.

He also declined to have any conference with the Directors of the Rutland & Burlington Railroad Company.

He preferred to take his chance before the Legislature.

He took the ground that the connection with the Rutland & Burlington Railroad already made by the old line to Burlington complied with the terms of the charter.

The result was that in 1858 the new Directors of the Vermont & Canada Railroad Company appeared before the Legislature for relief from that obligation.

The Rutland & Burlington Railroad Company appeared with a large array of counsel and contested the claim of the new Directors vigorously.

The local interest on their projected line of road was also stirred up in their behalf.

The result of the contest, which lasted nearly the whole of the session, and by which the State was agitated to a very considerable extent, was that the Legislature passed an act which was very stringent upon the Vermont & Canada Railroad Company, compelling them to build their road from Burlington to a point in the town of Milton, making about ten miles of road to build, and compelling them to have it done in limited time, or else the charter would be forfeited absolutely.

The Legislature defined the route which should be taken, compelling the Vermont & Canada Railroad to go west of the town house in Colchester, and across the great Sunderland Ravine at a very great cost, and over a line on which it was very difficult to build a road.

Mr. Parrott, the President of the Vermont & Canada Railroad Company, and the new Board of Directors, after surveying said line of

road, estimated that it would involve the Vermont & Canada Railroad Company in an expenditure of a million of dollars to build said ten miles of road. They could raise the money to do this only by a mortgage upon their property, and a failure to build the road would work a forfeiture of their charter.

Thus matters stood in 1858, when Mr. John Smith deceased, and J. Gregory Smith was appointed in his place one of the Trustees of the first mortgage and as Receiver.

Soon after his appointment as Trustee and Receiver, J. Gregory Smith was invited to meet some of the principal and heavy security holders in Boston, and a more friendly feeling was established between the two parties.

Previous to that for some years there had been no meeting between the Receivers and Trustees or any of the Vermont interest, with the Boston security holders. This was the first time any attempt had been made on the part of the security holders to reconcile matters and see if the litigation could be compromised.

In pursuance of this invitation, J. Gregory Smith went to Boston, and there met Mr. Edward Mott Robinson, (the heaviest stockholder, except Mr. Collins, who resided in Halifax,) Mr. Kittell, Mr. Blake, of Boston, and Mr. Emery, who had extended the invitation. They then suggested that some effort be made to harmonize these railroad interests, and stop the litigation, and if possible save the great expense and the building of the Vermont & Canada Railroad from Burlington to Milton, by way of Colchester. The inquiry was made of said Smith, whether he thought the arrangement that was made with the Rutland & Burlington Railroad Company could be revived in any way. He indicated to them that he had no reason to doubt but what it could be revived, and further, that he thought necessary legislation could be obtained to change the act of 1858, and that such legislation could be obtained as would enable the Vermont & Canada Company to comply with the favorable arrangements which had been proposed, at an expense of three or four hundred thousand dollars. Thereupon a satisfactory understanding in regard to all matters in controversy was arrived at, and, so far as they were concerned, the litigation was to be ended, and the matters of the Vermont & Canada Company were to be so conducted as to attempt to bring the question of the validity of the lease before the Supreme Court. This result was satisfactory, except to the Board of Directors who were then in power, and who were determined to contest the matter and make no concession, whatever; but the stockholders were determined that the

ard of Directors should not prevail, and they formed themselves into self-constituted Committee of Stockholders, and assumed the authority to close the arrangement.

In 1859 the old Board of Directors of the Vermont & Canada Railroad Company was turned out and a new Board elected, consisting of Elias B. Peck, Edward Mott Robinson, Edward Blake, W. C. Smith, Clark and Mr. Porter, Mr. Peck being President.

Soon after the meeting in Boston, above mentioned, a conference was had with the Rutland & Burlington Railroad Company to see if anything could be done to effect a compromise with them. Judge Colwell, Mr. Thatcher, Mr. Chapin and some of the Committee of that day were present, and it was there agreed, that if the Vermont & Canada Railroad Company would, within a limited period of time, construct a road through the sand bank, (so-called,) and abandon the other road, and make a connection with the Rutland & Burlington Road, that they, Rutland & Burlington Road, would accept it in lieu of the other road by way of Colchester, and that they would use their influence actively with the Vermont Central and Vermont & Canada Roads before

the Legislature to change the legislation of 1858, touching said Charter of the Vermont & Canada Railroad Company by way of Colchester, so as to enable the Vermont & Canada Railroad Company to build a road through the sand bank to Burlington.

As a part of the contract and consideration of this change, Judge Colwell required that the expenses which the Rutland & Burlington Railroad Company had been at up to that time touching said matter, should be paid by the Vermont & Canada Railroad Company, and it was so arranged. And Mr. J. Gregory Smith and Lawrence Brainerd, and the Rutland & Burlington Railroad Company, caused the substance of said arrangement to be reduced to writing at its final consummation.

The amount of expenses of the Rutland & Burlington Railroad Company, as contemplated in the arrangement, were afterwards paid to Judge Smalley by the hand of Lawrence Brainerd, in full satisfaction of the expenses that the Rutland & Burlington Railroad Company had been during the session of the Legislature in reference to said Charter.

The amount represented in the Voucher herein referred to in relation to this matter, was for the expenses which the Rutland & Burlington Railroad Company had been at during the controversy, for counsel, witnesses, &c., at the hearing before the Legislature, and which Judge Colwell claimed ought to be paid by the Vermont & Canada Company, they were the beneficiaries of the compromise. Lawrence Brainerd

accordingly settled with Judge Smalley who acted for the Rutland & Burlington Railroad Company, and took his Voucher for the amount.

The compromise which had been made by the meeting of security holders, and which resulted in the final decree of July 13, 1861, worked a radical change in the affairs of the Vermont Central Railroad, their interests being thereby harmonized so far as they could be at that time.

This decree and all the antecedent proceedings thereto, may be found in the printed Volume of Charters, Decrees and Leases, on pages 95 to 166 inclusive, and the same is referred to for greater particularity, and made a part of this report.

The decree of July 13, 1861, among other things, fixed the cost of the Vermont & Canada Railroad, with its buildings, fixtures, lands and appurtenances, upon which the said Vermont & Canada Railroad Company were entitled to receive rent at the rate stipulated in the lease, at the sum of one million, three hundred forty-eight thousand, five hundred dollars, and that all the rents had been paid up to the first day of June A. D. 1854, and that there was due at the date of said decree, the rent for the whole period from said first day of June A. D. 1854, to the date of said decree at the rate above stated, upon which the Vermont & Canada Railroad Company were entitled to interest from the said times when the same became payable under said lease.

And further, that the contract or indenture between the said Vermont & Canada Railroad Company, and said Vermont Central Railroad Company, dated the 9th day of July A. D. 1850, in which it was agreed that in case the rent should become due to said Vermont & Canada Railroad Company as aforesaid, and remain unpaid for more than four months next after so becoming due, that the said Vermont & Canada Railroad Company should have the right to enter into possession of the roads of both said Companies, and use and operate said roads, and other property connected or used therewith, and receive all tolls and income thereof, until all arrears of such rents should be paid, as in said instrument is set forth, is a valid and binding contract between the said parties to it, and all other parties holding subsequent incumbrances upon said Vermont Central Railroad, its buildings, fixtures, lands and equipments, so far as to entitle the Vermont & Canada Railroad Company to have the tolls and income of both said roads, directed to and applied to the payments of rents due, and to grow due under said lease for the use of its said road.

And it was further ordered and decreed therein, that the possession, management and control of both said railroads, and railroad property be

inued in the then present Receivers, Lawrence Brainerd, Joseph K and John Gregory Smith, subject to the order and direction of the Court, with power of removal at all times.

And it was further ordered in and by said Decree, that said Receivers cause their accounts, as such Receivers, to be presented and settled in as may be, and thereupon to pay over to said Vermont & Canada Railroad Company whatever money may be in their hands (less than amount of said overdue rents and the costs) from the earnings of roads and property; and also, thereafter to pay over to said Vermont & Canada Railroad Company, semi-annually on the first days of September and June, such sums as may accrue from the earnings of said roads and property, until the sums then due and thereafter growing due to the Vermont & Canada Railroad Company under said contracts and costs in said cause, taxed and allowed at the sum of four thousand, seven hundred and eighty dollars and eight cents, shall be fully paid and satisfied.

And further, that said Receivers do report to said Court of Chancery on the first days of January and July in each year, or as soon thereafter as may be, the amounts of the earnings of said roads and property, the receipts and expenses of running and operating the same, and keeping said roads and property in proper repair, and their own charges and expenses as such Receivers, and also the amounts and dates of such payments to be made to the said Vermont & Canada Railroad Company as aforesaid, the extinguishment of its claims under said Decree, and the state of accounts with the said Company in the premises; and also generally condition and situation of said roads and property, which reports to be verified by the oaths of said Receivers or a majority of them.

The Decree established the prior right to the Vermont & Canada Railroad Company and provided for the payment of their accumulated rents, which for a period of about seven years had been in default, and which, claimed by the Vermont & Canada Company, amounted to seven or eight hundred thousand dollars, they claiming the right to charge interest on the semi-annual amount at more than six per cent., and so made their account which was referred to Masters to ascertain the amount due upon due.

The burden imposed upon the Receivers and Managers by the Decree was assumed, and they commenced to meet the payments of rents provided for by the terms of the Decree.

It was considered at the time, that it would take many years to pay the Vermont & Canada rents, thus placing the First Mortgage Bondholders so remote from the income of the roads as to make the prospect

of their getting any dividend very discouraging; and it was therefore proposed to capitalize the back rents as soon as possible, and thus compromise the matter.

The Decree not only established the right of the Vermont & Canada Company to have the net income of the roads applied in the liquidation of their rents, but it also placed the management of the property in the hands of a receivership, instead of allowing the Vermont & Canada Company to control it as a corporation. This receivership was evidently intended by the parties interested to embody, in its operation, more the character of the rights and duties of a corporation in relation to the care and development of the property, than those of a strict technical receivership, as generally understood by that term.

On ascertaining the true amount due to the Vermont & Canada Company for back rent, that Company and the First Mortgage Bondholders effected a compromise which resulted in what is known as the Compromise Decree of 1864, by which the Vermont & Canada Company's rents were still to remain as a first lien upon the property, and the overdue rents to be capitalized, and the capital stock increased.

This, however, involved the authority of the Legislature for the reason that the Vermont & Canada Railroad Company had no power to create capital stock except for construction purposes.

An application was therefore made to the Legislature, and the increase of the capital stock of said Company was granted.

The Decree of January 19, 1864, was made, and the property continued in the hands of the then Receivers, and for greater particularity the petition to the Court of Chancery, and the orders of the Court thereon, and the Decree based upon said petition are referred to and made a part of this report, and may be found on pages 167 to 180 of the printed volume of Charters, Decrees and Leases.

By this Decree, among other things, the overdue rent was capitalized, and the stock of the Vermont & Canada Railroad Company increased to \$2,000,000.

The first Receivership of 1855 was regarded as temporary in its character, and only designed to hold the property together pending the litigation, but after the compromises commenced, it was understood and expected that the property of these roads would remain permanently in the hands of a receiver, and that the parties interested would be so far in connection and consultation with the Receivers and Managers as to know what was being done; and that the Receivers and Managers would be virtually clothed with the powers of a corporation, in reference to the

management and development of the property, and that it would remain in the Court of Chancery merely for the protection the Court could give it in its weak condition. ||

The management of the property has been conducted in conformity to this understanding, and the action of the Court has been invoked from time to time, only to conform to and carry out the plans and policies of the various security holders and parties in interest, as settled and agreed upon in consultation with the Receivers and Managers; and as evidencing this to some extent, the action of the Board of Directors of the Vermont & Canada Railroad Company, February 1st, 1860, may be referred to, and the same may be found on page 285 of the Vermont & Canada Company's records.

The decree of January 19th, 1864, provided, among other things, as follows: That, O. W. Davis, Joseph Andrew and Otis Drury, the (then) present Committee of said First Mortgage Bondholders, and their successors as such committee, who shall be appointed annually by such bondholders, at a public meeting, called upon reasonable public notice, for that purpose, shall constitute an advisory board in respect of the management of said roads and property, with the right to advise the Trustees and Receivers in respect thereto, and with the right at all times to examine and inspect the books, papers and accounts of said Trustees and Receivers in respect of the premises.

And said Trustees shall, on reasonable request, give such committee all the information in their power, respecting their plans and policy in the management of the business of said roads.

And said committee shall constitute the auditors of the accounts of said Trustees and Receivers; and said Trustees and Receivers shall annually report to this Court their accounts in the premises, and if said auditors shall approve the same, they may be allowed and passed without further proceedings, but if any part thereof shall not be approved by said auditors, the usual reference thereof shall be made for examination and decision, according to the course of this Court.

It also provided for the payment of all incidental expenses of the said Vermont & Canada Railroad Company, which had arisen or accrued since June 1st, 1863, or which might thereafter arise or accrue by said Trustees and Receivers from time to time, out of the earnings and income of said roads and property, and in case of dispute, the amount of such expenses, to be settled by the Court.

And further, that "said Trustees and Receivers shall, out of said earnings and income (and as soon as it can be done without delaying

the construction of the extension of said Vermont & Canada Railroad to Canada line, in the town of Highgate, as in said Decree referred to, and within three years next after the first day of June A. D. 1864,) pay to the said Vermont & Canada Railroad Company the sum of ninety-seven thousand dollars in money, with interest thereon from and after said first day of June A. D. 1864, until the said sum shall be paid, said sum to belong to the holders of the said two millions of dollars of said stock."

And it was further therein provided as follows :

"That the costs and expenses of building the extension of said Vermont & Canada Railroad to Highgate line, on the border of Canada, shall be paid by said Trustees and Receivers from the earnings and income of said roads and property, and for so much of such costs and expenses thereof as shall not exceed two hundred and fifty thousand dollars, the said Vermont & Canada Railroad Company shall, as often as such costs and expenses amount to the sum of not less than seventy thousand dollars, (and for the last part thereof, to forty thousand dollars) issue shares of its capital stock therefor (beyond and above the said two millions of capital stock aforesaid,) and deliver such shares to said Trustees and Receivers at par, for the benefit of the First Mortgage Bondholders of said Vermont Central Railroad Company, and said Trustees and Receivers shall thereupon, on such delivery, distribute such shares of said stock rateably among said Bondholders, in part liquidation of their respective claims as such, and shall, after the expiration of six months next after such delivery of such stock, sell such part of the same as shall not have been so distributed and accepted by the Bondholders, for cash for the benefit of such Bondholders; and on such sale, all such Bondholders as may choose to purchase any of such stock, shall be entitled to do so by paying said Trustees and Receivers the par value thereof.

"And all such stock so issued and disposed of, shall stand as a part of the whole capital stock of said Vermont & Canada Railroad Company, and there shall be paid to said Vermont & Canada Railroad Company, by said Trustees and Receivers, an annual rent on the amount so represented by such further issue of said stock, at the rate and at the time hereinbefore directed as to the present capital stock of said Vermont & Canada Railroad Company."

By this Decree the interests of the Vermont & Canada Company, and the First Mortgage Bondholders were brought into harmony, and the same parties who made the compromise of 1864 continued their negotiations and a further compromise was effected, which resulted in the

Decree of April 14, 1866, by which the funding of the overdue coupons of the First Mortgage Bonds of the Vermont Central Railroad Company was adopted.

An agreement was made between the First and Second Mortgage Bondholders, with the assent of the Vermont & Canada Railroad Company, that the overdue coupons of the First Mortgage Bonds should be fixed at one million of dollars; the actual amount overdue was considerably more than that sum, but a concession was made and the Court was asked to add and enlarge the Mortgage itself from \$2,000,000 to \$3,000,000, bearing interest at the rate of 7 per cent., and the Second Mortgage Bondholders for certain considerations were to surrender all their coupons, and extend their Mortgage with new coupons attached for the term of twenty-five years from June 1st, 1866. Up to that time there had been but very few, perhaps not more than one or two, of the Second Mortgage coupons paid. 200
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The Bankruptcy of the Vermont Central Railroad Company ensued soon after the Second Mortgage was executed, and nearly all the coupons left unpaid.

At the time of this compromise the principal of the First Mortgage had matured, and the principal of the Second Mortgage nearly so.

The Decree extending payment of First and Second Mortgage Bonds April 14, 1866, is referred to for greater particularity, and made a part of this report, and may be found on pages 180 to 198 of the printed volume of Charters, Decrees and Leases.

This Decree completed the negotiations, and compromises began in 1859.

In pursuance of the agreement of the parties interested, as will appear on inspection of the orders of the Court, and the Decree itself, it was decreed among other things as follows: "That the said Bill of Complaint be taken as confessed by each and all the said defendants thereto; and that

"First, The principal and all accrued interest of and upon the said so-called First Mortgage Bonds, excepting, and aside from, all interest coupons appertaining to said Bonds, numbered lower, and being earlier than coupons numbered seven, shall be consolidated, and the amount thereof, in the whole, treated and considered on the first day of June A. D. 1866, at the sum total of three millions of dollars, and so much in addition thereto as shall be needful to provide for the face of coupons herein named, numbered less than seven, as hereinafter provided, and all principal and interest up to said date, including coupons numbered lower than

seven, shall stand equal, without preference or priority as to either, or between earlier and later coupons; and to this end all such bonds with coupons numbered seven and upwards, shall entitle the holder thereof to receive a substitution for such coupons numbered seven and upwards, and for all interest on the same, and on the principal accruing on said bonds, after due, a new set of coupons applicable to each of such bonds, payable semi-annually as hereinafter provided, at the rate of seven per cent. per annum on said principal of said bonds, and having twenty years in the whole, next after said 1st day of June A. D. 1866, to run, and such Bondholders shall also be entitled to receive new bonds in general similitude with the presently existing bonds, to an amount equal to fifty per cent. of the principal of said bonds, and also to the same per cent. of and for coupons earlier than those numbered seven aforesaid as hereinafter provided, and which new bonds shall be payable twenty years from and after said first day of June A. D. 1866, with coupons attached, for interest payable semi-annually, and the said principal bonds now outstanding shall also be extended for payment for the same period, and said new bonds and coupons, when paid or enforced, shall be a complete satisfaction and discharge of all coupons and interest accruing on said principal bonds, and on the coupons thereof, down to said first day of June A. D. 1866, except as hereinafter provided, but the said Trustees may, in their discretion, adjust for cash, said coupons numbered less than seven.

“Second, All the coupons now outstanding and appertaining to said First Mortgage Bonds respectively, shall be delivered up to, and held by the Trustees of said First Mortgage, and shall be, by them, marked, registered and preserved, for the benefit of the persons surrendering the same, and those claiming from or under them, by means of the transfer of any such bonds respectively; but all such coupons shall be absolutely discharged and extinguished, together with all interest or damage appertaining thereto, when such new bonds, and the coupons and interest thereon shall be paid, and so in a rateable and just proportion for any part of such payment.

“Third, The said presently existing bonds shall be fitly stamped as extended for said period of twenty years from the first day of June A. D. 1866, and the new interest coupons therefor aforesaid shall be attached thereto, and on said first day of June A. D. 1866, three and one-half per cent. interest for the current and then terminating six months of the said principal of the said presently existing bonds shall be paid which payment shall be stamped upon said bonds, and shall operate

extinguish the coupons on such bonds numbered seven, so that said arrangement shall go into effect on said June first, A. D. 1866, as therein and herein provided.

"And the form in detail of stamping said old bonds and coupons, and marking the same, shall be determined by said First Mortgage Trustees, and all said new bonds, and coupons of both classes of bonds, shall be executed by the Treasurer of said Vermont Central Railroad Company.

"Fourth, The said new bonds with the coupons thereof under such Mortgages respectively, shall stand equal with the presently existing bonds, and with the new coupons thereof, under the same Mortgage, in respect to security under such Mortgage, and the right of payment, without preference or priority to either, preserving the order of priority of security under said two Mortgages, as between each other, as herein elsewhere provided."

Then follows certain provisions and details in relation to the form of said new bonds and coupons, and in relation to the payment of the same as established by said Decree.

"Eighth. The foregoing provisions and details shall apply in like manner and operate upon the notes commonly called bonds, secured by the Second Mortgage of the Vermont Central Railroad Company, except as herein otherwise specially provided, and the sum total of the principal and interest of said Second Mortgage Bonds shall be fixed and established as amounting to and being, on said first day of June, A. D. 1866, the sum of one million five hundred thousand dollars, and in addition thereto such sum as shall be equal to the amount of the face of coupons numbered less than five, and outstanding, of said Second Mortgage Bonds, and no new bonds shall be issued for coupons or interest on said Second Mortgage Bonds or Coupons, save for those so numbered less than five and outstanding, and for those last named coupons, new bonds shall be issued to the holders of such coupons, at their face, and without interest on such coupons (fractions and other details being adjusted as hereinbefore provided) and both the presently existing principal of said Second Mortgage Bonds, and said new bonds, last named, shall be extended and run for the period of twenty five years from June 1st, A. D. 1866, with interest coupons attached thereto, for the semi annual payment of interest at the rate of seven per cent. per annum, the first of such coupons, however, to be payable June 1st, A. D. 1867, interest beginning December 1st, A. D. 1866; and such surrendered Second Mortgage Coupons shall be held, registered, marked and discharged in the

same manner, and with like effect as said First Mortgage Coupons aforesaid.

"And all said Second Mortgage Bonds, interest and coupons, shall be subject and subordinate to all said First Mortgage Bonds, interest and coupons as the respective rights, liens and securities now exist under the said two mortgages, save that the new interest coupons aforesaid, under said Second Mortgage, shall be paid from time to time out of the proceeds of the earnings of the property as accruing, when currently maturing or overdue First Mortgage Coupons shall have been provided for; and if current funds of said Trust applicable to interest shall not, at any time when such coupons shall be payable, be sufficient to pay full coupons on either or both of said First and Second Mortgage sets of securities, according to the rights and priorities aforesaid, the sum so applicable to interest as aforesaid, shall be set apart to the credit of the coupons to which it may be applicable, and when, and as often, as such funds so set apart shall amount to fifty per cent, or upwards, of such coupons, they shall, to the extent of fifty per cent. or, if sufficient, to the full amount, be paid over in discharge of such coupons; the respective coupons becoming first due and payable being first paid.

"Ninth. In all the arrangements, acts and provisions aforesaid the prior and paramount right of the Vermont & Canada Railroad Company, as provided for in its lease and the instruments in addition thereto, and in the Decrees of the Court of Chancery heretofore rendered in this cause, shall be recognized and preserved inviolate, and all the payments aforesaid to be made out of said trust funds shall be made only when funds properly and lawfully applicable to such payments shall be in hand from the clear profits of the business of said railroads after paying all sums properly to be expended in the course of said business or under the direction of this court, and for the safe and proper management and development of said roads and their business, and after paying all sums to which said Vermont & Canada Railroad Company may, by force of said prior and paramount rights be entitled: And the Decrees of this Court passed on the nineteenth day of January A. D. 1864, are ratified and confirmed, save and except so far as herein otherwise provided as between said first and second Mortgage Bondholders.

"Tenth. The Trustees under said mortgages and the Receivers in said cause shall not incur or be held to any personal liability or obligation in the matters aforesaid, whatever, save for their personal fraud or misconduct respectively.

"Eleventh. The advisory board provided for in said Decree of Janu-

ary 19, A. D. 1864, in this Court, shall hereafter, until otherwise ordered, be constituted of two First Mortgage Bondholders, to be appointed by the First Mortgage Bondholders in the manner provided in said last named Decree, and of one Second Mortgage Bondholder to be appointed by said Second Mortgage Bondholders, which board shall have and exercise the power in said last named Decree provided for.

"Twelfth. The word bond, as used in this Decree, shall mean the unsealed instrument commonly called 'bond.'

"Thirteenth. All parties, privies, classes and persons interested in the premises, being parties hereto by representation or otherwise, or their privies, shall be held and bound by this suit and Decree, and shall execute, carry out and obey all and singular the provisions of this Decree, in the same manner and to the same effect as if they were personally and actually parties on the record hereto.

"Fourteenth. The Orators' costs in this supplemental proceeding shall be paid out of the trust funds in this Court, in the hands of the Receivers, and the same are taxed and allowed at the sum of one hundred and nine dollars and sixty-three cents.

"Fifteenth. Any party in this cause shall be at liberty to apply according to the usual course of this Court, for further direction in the premises, according to the scope of the Orator's bill and this Decree, as he may be advised."

In pursuance of this Decree bonds were issued which are known as "the consolidated bonds."

This settlement of difficulties and establishment of harmonized relations between all parties in interest had a favorable effect upon the property, relieving the Trustees and Receivers and Managers from their burdens and giving them an opportunity to devote themselves more assiduously to its interests.

As early as 1858, the property was in a very bad condition, the power was badly run down, the track in a very bad condition, buildings and stations greatly depreciated and the side tracks wholly insufficient to accommodate the growing business of the roads.

From that time to 1865, large expenditures had been made in improving the property so as to meet the requirements of its increasing business. The income of the roads proved insufficient to meet this expenditure and pay off the interest on the increased capital established by the decree of January 19, 1864.

The Receivers, therefore, on the 4th day of August, A. D. 1865, made their petition to the Court of Chancery asking said Court to

authorize a loan of \$700,000 to meet the necessities of the road. And that petition very fully sets forth the object and purpose of said loan, and with the orders and decree thereon may be found in the printed Volume of Charters, Decrees and Leases, on pages 198 to 208 inclusive, and the same are referred to and made a part of this report. The Decree therein is dated the 7th day of September, A. D. 1865, and the loan thereby authorized is known as the first equipment loan.

Due notice having been given of the pendency of said petition, and the facts therein set forth having been found to be true, the Court of Chancery ordered and decreed as follows: "It is now thereupon ordered and directed that the said Receivers and Managers be authorized and empowered to borrow such sums, not exceeding in the whole seven hundred thousand dollars, as shall, in their judgment, be necessary for the uses and purposes set forth in said petition.

"And in order to raise said money, if practicable, without embarrassing or suspending the payment of rents, dividends or interest named in the decrees heretofore passed in this cause, it is further ordered and directed that the said Receivers and Managers be authorized and empowered as such, and free from personal liability in respect thereto, to issue and dispose of their promissory notes for such sums and on such time or times not exceeding ten years from the date thereof, and at such rate of interest not exceeding eight per cent. per annum free from the income tax, so called, and payable at such places and times, both as to principal and interest, as they shall judge expedient; and specially to pledge and secure a lien upon to the holders of all such notes equally and rateably, the engines and cars which have been added to the equipment of said line since January 1st, 1864, together with all the cars and engines to be purchased and provided with the funds so raised as aforesaid for the ultimate repayment of said loan, notes and interest, and to set aside, from year to year, as a fund wherewith primarily to meet and liquidate said interest and principal, as the same may become due, the car service, so-called, of all said engines and cars so specially pledged and to be pledged for the security of said loan, notes and interests, and said sums so set aside, shall be used to pay off such interest as it accrues and becomes due. And the balance of said sums so to be set aside shall, after liquidating such interest, be and constitute a sinking fund to accumulate and be kept separate from the general assets of said Receivers and Managers, wherewith to pay off and extinguish rateably, as aforesaid, said loan and notes as they become due.

And said Receivers and Managers may in their discretion in the

management of said sinking fund either use the same from time to time to buy up and extinguish any of said notes before due, or invest the same from time to time in public securities.

"And in the event that said notes shall not be fully paid or retired at or before their maturity, or if said interest shall not be paid from time to time as it shall fall due, the holders of all or any such dishonored notes shall be at liberty to apply to this Court for relief in the premises in this cause by the enforcement and realization of their said securities. And if said funds shall exceed an amount sufficient to pay off all said notes and interest, then such residue, as well as said cars and engines, shall fall into and become a part of the general funds and assets of said Receivers and Managers, and all payments upon and securities for said notes and interest shall be shared in by and made to the holders of all such notes equally and rateably. And in case said Receivers and Managers shall not be able to raise and obtain the aforesaid necessary sums of money in the manner aforesaid, they shall be at liberty and are hereby authorized to make such temporary loans as shall be needful as aforesaid in the premises and on the credit of the funds and assets of said Receivership and Management, and to repay the same with interest and necessary expenses out of any earnings accruing, accrued or to accrue from the business of said line, at any time, and to use and appropriate for the needful purpose aforesaid all of such earnings as may be required."

On the first day of May, A. D. 1867, another loan was authorized by the Court of Chancery, under circumstances and for the purpose fully set forth in the proceedings in relation thereto, and the same may be found on pages 208 to 214 inclusive, in the printed Volume of Charters, Decrees and Leases, and the Decree of said Court therein is as follows:

"At a Court of Chancery, holden at Burlington, in the County of Chittenden, on the first day of May, A. D. 1867, it was ordered and decreed as follows: In the cause of the Vermont & Canada Railroad Company vs. Vermont Central Railroad Company and others, in the County of Franklin, Lawrence Brainerd and John Gregory Smith, of St. Albans, and Joseph Clark, of Milton, in the State of Vermont, having filed their petition to said Court, setting forth that they were, by a decree of the Court of Chancery, in the County of Franklin, in the year 1863, appointed Receivers and Managers of the Vermont Central Railroad and the Vermont & Canada Railroad, and of the property and assets belonging to said roads, and that ever since they have had the control and management of the same; that they are also the Trustees for the Bondholders under the First Mortgage, on the Vermont Central Railroad.

"They represent that when the first decree was made in favor of the Vermont & Canada Railroad Company and other parties, there was due from the Vermont Central Railroad Company to the Vermont & Canada Railroad Company a large arrear of interest; that the same was adjusted and agreed between the parties, and enough of the same was converted into stock of the Vermont & Canada Railroad Company to make the capital stock of that Company Two Millions of Dollars, which was authorized by an act of the Legislature and by a decree of the Court, made January 19, 1864, that there remained due to the said Vermont & Canada Railroad Company, of said arrears of interest, the sum of ninety-seven thousand dollars, which, by said decree, the petitioners were directed to pay to the said Vermont & Canada Railroad Company with interest, within three years from the first day of June, 1864, from the income of said roads; that the same is still wholly due and unpaid, and that the income and earnings of said roads have been necessarily used for other necessary purposes and expenditures for the use and benefit of said Trust, so that the petitioners have not now the funds to pay the same.

"They further state that by the Charter of the Vermont & Canada Railroad Company and by the Decree aforesaid, they were required to build the extension branch of said road to Canada Line, and pay for the same from the earnings of said road, and expended for that purpose about Three Hundred and Fifty Thousand Dollars. They have also been compelled to build a branch of said Vermont & Canada Railroad into the City of Burlington, and the building of the same and the docks connected therewith cost about Four Hundred and Fifty Thousand Dollars.

"They further state that they have been obliged by the necessities of the business of said roads, to erect new and expensive depots at St. Albans, Burlington, Essex Junction and White River Junction; new machine shops and other buildings at St. Albans, and to purchase a large number of engines and cars. These outlays were made under the direction of the Court, but the unexpectedly increased cost of materials and prices of labor increased the expenditure above the estimates and the same ordered therefor by a large amount.

"They also state they found that the interest of the roads and property in their management made it absolutely necessary for them to obtain control and management of a branch road running easterly from St. Johns, Canada, called the Stanstead, Shefford & Chambly Railroad, and that this could only be done by purchasing the stock of said road and the bonds secured by a mortgage thereon, which required an expenditure

of about Three Hundred and Sixty-four Thousand Dollars; and the necessity of such purchase was so apparent that it was assented to and approved by all parties in interest in said Trust.

"They also state that they have been compelled to expend the income and earnings of said road for many other purposes and objects, necessary for the safety and protection of said roads and property in their care, not needful to be specifically enumerated in this petition.

"That the result of all the expenditures upon and for the benefit of said Trust property has been, that the managers are now under liabilities for the Trust of about \$753,302.98. That on the first day of June next, the aforesaid \$97,000 due the Vermont & Canada Railroad Company will fall due, with interest \$114,000; also, the dividends due the Vermont & Canada Stockholders \$90,000; also, interest on Equipment Loan, due May 1st, \$28,000; also, interest due on First Mortgage Bonds, due June 1st, \$105,000; also, interest due on Second Mortgage Bonds, due June 1st, \$52,500, making a total of liabilities due or to fall due on or before the 1st day of June next, of about \$1,142,802.98.

"They also state that the most of the aforesaid expensive erections, as well as the two branches built, are upon the Vermont & Canada Railroad adding largely to the cost and value of that road, but not represented by any stock of that company, while by the terms and spirit of the lease the cost of that road was to be represented by stock.

"They further state that for the purpose of providing means to meet said existing and maturing liabilities against said Trust, they have had a meeting with the authorized representatives, Agents and Committees of all the different interests in said Trust property, and have mutually agreed upon a plan for that purpose as follows, viz:

"1. That the stock of the Vermont & Canada Railroad Company be increased two hundred and fifty thousand dollars to be used to pay said sums now due to that Company and the dividend to fall due June 1, 1867, and the balance to be used by said Managers in liquidation of claims against the Trust.

"2. That the Managers be authorized to issue obligations or notes, with coupons payable semi annually at seven per cent. interest to run twenty years from date to be secured by a pledge of the stock and mortgage bonds of the said Stanstead, Shefford & Chambly Railroad Company and all of the net earnings of said road, it being also agreed that the holders of said First Mortgage Bonds of the Vermont Central Railroad Company will as such, accept such notes in payment for installments of interest falling due on their bonds on the first days of June and

December ; and it being also agreed that the Second Mortgage Bondholders will accept such notes in payment of the interest falling due on their bonds on the first days of June and December next and will also take of said Managers the sum of one hundred and fifty thousand dollars of said notes and pay cash for the same to said Managers. And the balance of said notes to be used by said Managers for the liquidation of debts against said Trust.

3. That said Managers be authorized to issue the further sum of three hundred thousand dollars in notes in addition to those issued by them under a former decree of this Court and known as the equipment loan, and upon the same general terms and conditions to be secured upon the stock on said roads and the income of the same in any other manner not inconsistent with existing liens, to be used in extinguishing liabilities against said Trust."

They further state that Worthington C. Smith of St. Albans, aforesaid, and Robert F. Taylor of Philadelphia, are the Trustees of the Second Mortgage Bonds ; that J. M. Pinkerton and Joseph Andrews, of Boston, and Robert F. Taylor, aforesaid, now constitute the advisory board for both the First and Second Mortgage Bondholders, provided for by said Decree of January 19th, 1864, as modified by a Decree of April 14th, 1866 ; that the persons aforesaid in behalf of all those they represent, have assented to said agreement, and the same has also been done by several leading Bondholders personally. The Petitioners on behalf of the Trust and for the First Mortgage Bondholders, have also given their assent, and the same has also been done by said Vermont & Canada Railroad Company.

And praying for an order of notice to all parties in interest, and that a Decree be made confirming said agreement, and for all necessary orders and authority to carry the same into effect, and the said petition having been presented to me on the 15th day of April, 1867, it was ordered that said petition stand for a hearing before me on the 1st day of May, 1867, at 10 o'clock in the forenoon, at the American Hotel in Burlington, in the County of Chittenden.

That due notice of the time and place of hearing of the matters alleged in said petition be given to all parties herein named, and also by publication of the substance of said Petition in the Boston Daily Advertiser, printed at Boston, Mass., and in Walton's Daily Journal, printed at Montpelier, Vermont.

And now on this first day of May, it being made to appear that due notice of said Petition has been given to all the parties named, and also

by publication agreeable to said order, and all the said parties named having duly appeared before me, and also Timothy J. Hubbard of Montpelier, Vermont, a Stockholder in said Vermont & Canada Railroad Company, and a holder of a part of the Equipment Loan Notes, by his attorney W. G. Ferren; the said Petitioners produced their proof in support of said Petition from which the Court found and adjudged, that all the facts set forth in said Petition are true; and it was also proved that at a duly notified meeting of the Stockholders of the Vermont & Canada Railroad Company, it was voted by said Stockholders that the stock of said Company be increased the sum of two hundred and fifty thousand dollars in shares of one hundred dollars each.

It is, therefore, by said Court of Chancery adjudged and decreed that the stock of said Vermont & Canada Railroad Company be increased said sum of two hundred and fifty thousand dollars, in shares of one hundred dollars each. And that the proper officers of said Company make a due and proper record thereof and issue proper certificates therefor. And deliver the same to the said Managers and Receivers, to be disposed of by them in the following manner, to wit: The said Receivers are to deliver to said Vermont & Canada Railroad Company a sufficient number of said certificates of stock to pay the said Company said sum of ninety seven thousand dollars arrears and the interest thereon accrued since the 1st day of June, 1864, and the same are to be taken and received in full payment of that sum; and the said Receivers are also, from said certificates of stock, to pay the present Stockholders of said Vermont & Canada Railroad Company their several dividends on their respective stock, falling due on the 1st day of June, 1867, and the same are to be accepted and received by such Stockholders in full payment and discharge of such dividends; and the balance of such stock thereupon remaining in the hands of said Receivers, is to be disposed of by them to the best advantage and the proceeds applied to the extinguishment of liabilities against said Trust property in their hands. And said increase of said capital stock of said Vermont & Canada Railroad Company is to be in full for all expenses and payments for construction and erections upon or for said Vermont & Canada Railroad up to the present time, and nothing herein contained is to be construed as in any way impairing the rights of said Vermont & Canada Railroad Company to their rights of priority in payment from the income and earnings of said roads as established by former decrees.

And it is further ordered and decreed that the said Receivers and Managers be authorized and empowered as such, and free from personal

liability in respect thereto, to make and issue their promissory notes or obligations for the sum of five hundred thousand dollars, in sums not less than one hundred dollars, nor more than one thousand dollars each, with coupons attached for the interest thereon at the rate of seven per cent per annum, payable semi-annually on the first days of January and July, each year, until said notes fall due, and said notes are to be made payable in twenty years from the first day of July, 1867, and are to be secured by a pledge of all the capital stock of said Stanstead, Shefford & Chambly Railroad Company and all the Mortgage Bonds of said Railroad Company now held by said Managers and Receivers, and by all the net earnings of said road to be run and operated by them. And it is ordered and decreed, that said Managers and Receivers do hold and retain in their hands, as a security for the payment of the accruing interest on said notes, and the payment of the principal sum when due, all the stock and bonds of the said Stanstead, Shefford & Chambly Railroad Company, and that all the net earnings and income of said road be strictly kept apart, for the payment of interest and ultimate redemption of said notes. And the said Receivers and Managers are directed to pay with said notes the instalments of interest to fall due on said First and Second Mortgage Bonds of the Vermont Central Railroad Company, on the first days of June and December next, to the several persons holding said bonds; and it is ordered that the same be accepted and received by such Bondholders in full payment and discharge of said instalments of interest on their respective bonds; and in case in making such payments to said Bondholders, there shall be a fractional sum of less than one hundred dollars due to any Bondholder, said Managers and Receivers shall issue to such persons a note or scrip for such fractional sum payable in the notes by this clause of this decree authorized, when presented in sums of one or more even hundred dollars, and when thus presented shall be paid in such notes.

And it is also ordered and decreed that said Receivers and Managers, upon the payment of the sum of one hundred and fifty thousand dollars in money, by said Second Mortgage Bondholders, do deliver to them the sum of one hundred and fifty thousand dollars of said notes, and the said agreements to accept and receive said sum in notes and pay said sum in money therefor, by said Second Mortgage Bondholders, is hereby fully confirmed and decreed to be performed.

And the said sum of one hundred and fifty thousand dollars, when received, and the remainder of said notes in the hands of said Managers are to be applied by them to the extinguishment of liabilities against said Trust.

it is further ordered and decreed that the said Receivers and Managers, as such, and without personal liability in respect thereto, be authorized to issue and dispose of their promissory notes for such sum, not exceeding three hundred thousand dollars, and for such time or term not exceeding ten years from date thereof, and at such a rate of interest not exceeding eight per cent. per annum, free from the income tax (as hereinafter called) and payable at such places and times, both as to principal and interest, as they shall judge expedient, and specially to pledge and create a lien upon, to the holders of all such notes, equally and ratably, upon the engines and cars covered by a decree of this Court, made on the 7th of September, 1865, authorizing the issue of seven hundred thousand dollars in notes of said Receivers and Managers, and known as "Equipment Loan," subject to all the liens and rights of all and every person holding any of said notes issued under said decree. And for the security for the said three hundred thousand dollars in notes, so authorized, the said Receivers and Managers are specially authorized to pledge and secure a lien upon the following stock upon said engines and cars now in possession of the said Receivers and Managers, as a part of the real estate and personal property, which is not embraced in or covered by the security previously authorized by said decree of September 7th, 1865, to wit: thirty engines, three hundred and sixty-six box cars, and ninety-eight flat cars; and (subject to the rights of the holders of such former equipment loan) all such engines and cars are to be pledged and holden as security for the payment of all the notes issued under this clause of this decree, and for the interest thereon; and the same provisions in relation to the application of the use and services of said engines and cars, to the creation of a lien upon the same for the ultimate redemption of said notes and the payment of thereon, are hereby adopted and made a part of this decree, in the same manner and to the same extent as in said former decree, and as is further recited herein, and said decree is referred to for that purpose; and the same remedies and rights given to the holders of the securities authorized by said former decree are given to the holders of securities issued under this decree, and the same authority and duties given to and imposed upon the said Receivers and Managers in respect thereto, as in said former decree, but not to prejudice holders of securities issued under said former decree.

And the avails and proceeds of all notes issued by said Receivers and Managers are to be applied by them to the extinguishment of the indebtedness of said Trust."

Done at the 16th day of August, A. D. 1867, Lawrence Brainerd, Joseph

Clark and J. Gregory Smith, Trustees under the First Mortgage of the said Vermont Central Railroad Company, and defendants in said cause, and the Receivers and Managers of the said Vermont & Canada and Vermont Central Railroads, their business and affairs, under a decree of said Court, made in said cause, at its April term, A. D. 1861, and the decree supplementary thereto, made their petition to the Court of Chancery, setting forth, among other things, that since the decree in said cause, made at said April term, A. D. 1861, whereby said petitioners were appointed the Receivers and Managers of said roads and business, the business affairs of said roads, with the necessary incidents and connections thereof, had very largely increased, requiring for their proper and most advantageous administration a very much larger amount of time and labor (as well in the consideration of questions of business connections and finance of said roads, as of mere executive duties,) than at the date of said decree.

And further setting forth that the business requirements of said roads, and the accommodation of the public, have made needful the obtaining, by way of loan, under the authority of said Court of Chancery, of large sums of money on the credit of said roads and their business and property, whereby, in connection with the funded bond creditors of said Vermont Central Railroad, and the Stockholders of said Vermont & Canada Railroad Company, a highly respectable and important class of persons and capitalists are interested in said roads and property.

And further setting forth that in view of the premises, they believe that the business interests of said roads, and the harmonious and co-operative support thereof, by the classes of persons above named, would be more fully attained and advanced, under present circumstances, by such a modification of existing orders as will admit to a reasonable voice and share in the management of said roads and business a representation of said Bondholders and creditors.

And praying that the said Lawrence Brainerd and Joseph Clark may have leave to resign, and that they be discharged from their office of Receivers and Managers of said roads and property, and that their accounts, as such, may be settled and passed, and that Benjamin P. Cheney of Boston, Massachusetts, and Robert F. Taylor of Philadelphia, Pa., may, by an order of said Court, be appointed Receivers and Managers in said cause, (the said Cheney and Taylor both being suitable and proper persons therefor, and each representing the classes and interests hereinbefore mentioned,) and that it be ordered in the premises that hereafter the said Lawrence Brainerd, Joseph Clark and J. Gregory Smith, the

said Trustees under said First Mortgage, and their successors in said Trust as therein provided, be and constitute, with the said J. Gregory Smith, Benjamin P. Cheney and Robert F. Taylor, Receivers and Managers of said roads and property, a Board of Management, (any three of whom shall be a quorum,) with power and authority, subject to the further orders and directions of said Court, to make all needful rules, orders and regulations for the management and operation of said roads, property and business; and to run, manage and operate the same for the uses and purposes, and under the decrees, orders and directions and limitations heretofore made in this cause; and that suitable provision be made for the compensation of the members of said Board, and that it may be directed that said Brainerd and Clark may be exonerated and discharged from all existing duties as such Receivers and Managers of said roads, business and property, under said prior orders and decrees; and that the said Cheney and Taylor be authorized and directed to assume, according to the provisions aforesaid, the joint possession and management thereof as such Receivers and Managers as aforesaid, with the said Brainerd, Clark and Smith.

And said petition having been filed in said cause, and presented to the Chancellor, and notice thereof having been given to the proper parties in said cause, and no objection thereto, and the matters stated therein appearing to be true; the Chancellor made a decretal order in conformity to said petition and the prayer thereof on the 16th day of August A. D. 1867.

And the parties therein immediately thereafter entered upon the duties of their appointment as required by said Decretal Order.

The petition and decree thereon may be found on pages 215 to 217 inclusive, in the volume of printed Charters, Decrees and Leases, and the same is referred to for greater particularity.

On the 18th day of May, A. D. 1868, Lawrence Brainerd, Joseph Clark, J. Gregory Smith, Benjamin P. Cheney and Robert F. Taylor made their petition to the Court of Chancery, setting forth among other things, that said Smith, Brainerd and Clark are Trustees of the First Mortgage of the Vermont Central Railroad; that the said Smith, Cheney and Taylor are the Receivers of the Vermont Central and Vermont & Canada Railroads, and that said Trustees and Receivers constitute a board of management of said Railroads, under and by virtue of an order of the Chancellor, made in said cause on the 16th day of August, A. D. 1867.

And after reciting, in said petition, the proceedings touching the

decree of September 7th, 1865, and the proceedings touching the decree of May 1st, 1867, above referred to, and being, among other things, proceedings and decrees relating to certain equipment loans, so called, said petitioners set forth in their said petitions as follows, viz :

“Your petitioners further show, by way of supplement to said former proceedings, that since the passing of said decrees, and the issue and disposal of said notes authorized thereby, doubts have arisen in regard to the proper construction of said decrees, and controversy is likely to arise in respect thereto, whereby the various securities in said roads would be prejudiced and injuriously affected : to end all which doubts, and possible controversy, and to provide additional equipment for said roads, in case the Managers thereof shall deem it advisable, a meeting was held at Boston, on the 30th day of April, A. D. 1868, and the following articles of agreement were entered into between the several committees of Bondholders, and parties who have subscribed the same, which said articles of agreement are in the words and figures following:

WHEREAS, By the decree of the Court of Chancery of April, 1865, the Trustees and Receivers were authorized and empowered to borrow seven hundred thousand dollars; and by the decree of May 1st, 1867, the Trustees and Receivers were authorized and empowered to borrow the further sum of three hundred thousand dollars, said decrees defining and limiting the terms and conditions, and prescribing the securities and liens therefor; and, whereas, by the terms of said decrees a sinking fund was ordered to be set apart for the purpose of providing for the payment of the interest of said loans, and for the ultimate payment in part, of the principal of said loans, when the same should mature; and, whereas, doubts have arisen as to the proper construction to be given to that portion of said decrees, relating to and providing for said sinking fund; and, where as, upon full and mature consideration and discussion by the undersigned representing the several classes of securities and interests of the Vermont Central and the Vermont & Canada Railroads, and by the undersigned holders of the Equipment Loan Bonds, so called, authorized by the said decrees above referred to, it has been determined to be best, and advisable for the interest of the property, in order to provide for the ultimate payment of said bonds when they shall mature, and at the same time to give to the Trustees and Receivers the power to enlarge the facilities for doing the business of the roads, and to increase its equipments, so as to provide for the growth and development of the said property, that the Trustees and Managers should have the power to invest the funds accruing and already accrued, as a sinking fund in further equipment and rolling stock.

Therefore, With a view to relieve the said decree from all doubt and ambiguity in its construction, and to authorize the said Trustees and Managers to invest the said funds derivable from the car service, so-called, in the most advantageous manner for the interests of all parties, the undersigned Trustees and Managers and the Committees representing the several interests in said property, hereby agree to the following articles and modifications of the said original decree, and respectfully request the Court of Chancery in Vermont, by supplemental decree, to change and modify said original decrees, so as to conform to the basis contained in the following articles, viz.:

First, That the freight car service shall be rated at \$5, or three and one-half mills per ton per mile; for passenger and baggage car service, two and one-half cents per mile run; for locomotive service, twelve cents per mile run; that after deducting from the amount of the car service the accruing interest, there shall also be deducted the cost and expense of keeping the said cars and locomotives in repair.

Second, That the remainder may be invested from time to time, in purchasing up said notes and bonds at their market value, or in such other securities of the road as may have been or may hereafter be issued; or, if in the judgment of said Trustees and Managers, the interests of the roads under their management, shall require it for the proper development of said property, said funds may be invested in additional equipment of said roads, by building or purchasing cars and locomotives; and in case said remainder shall be less, in any one year, than fifty thousand dollars, it shall be made up from the funds of said road to said last named sum.

Third, If the said funds shall be invested in additional equipment the same shall become, as fast as it may be put into service, an additional security to the notes issued and authorized under and by virtue of said decree and of this decree, supplementary thereto, and shall be applied to the notes issued under the several decrees in proportion to the amount authorized by the said decrees.

Fourth, If, in the judgment of the Trustees and Managers, at any time in the future, and before the maturity of said notes or bonds, it shall be deemed advisable to extend said notes or bonds for further period of time, it shall and may be competent for said Trustees and Managers, and they are hereby authorized to issue new notes or bonds of like amount, with the same conditions, liens and securities, and rates of interest, as are named and provided in said notes or bonds, already authorized by said former decrees, and for such length of time, not exceeding twenty

years from the date that the same may be negotiated, which said or bonds the said Trustees and Managers may offer in exchange for present bonds or notes, or, in their discretion, may negotiate and of the same at such rates as will enable them with the proceeds to purchase up and retire the present outstanding notes or bonds, fast as the said old notes or bonds may be retired, the same shall be cancelled and filed in the office of the said Trustees and Managers. the whole of said indebtedness shall, at no time, exceed the amount of said notes or bonds now outstanding to wit: the sum of million of dollars.

In testimony whereof, we, the several parties, in behalf of the several interests hereinbefore mentioned, do hereunto respectively subscribe our names:—

L. BRAINERD, JOSEPH CLARK, J. GREGORY SMITH, B. P. CHENEY, ROBERT F. TAYLOR.	}	<i>Trustees and Managers.</i>
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JOHN PORTER, EDWARD BLAKE, SAMUEL ATIHERTON.	}	<i>Committee of Directors of Vt. & Canada R. R. Co.</i>
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J. M. PINKERTON, OTIS DRURY.	}	<i>Committee of First Mortgage Bondholders.</i>
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W. P. HACKER, M. HALL STANTON, ROBERT F. TAYLOR.	}	<i>Committee of Second Mortgage Bondholders.</i>
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B. P. CHENEY, J. M. PINKERTON, EDWARD BLAKE, OTIS DRURY, ROBERT F. TAYLOR, LANSING MILLIS, L. BRAINERD, JOSEPH CLARK.	}	<i>Holders of the Equipment Loan.</i>
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Your petitioners further show, that the holders of said First Mortgage, and of said Equipment Loan Bonds, constitute a large number of persons, the greater part of whom reside beyond the jurisdiction of this Court, and many of whom are unknown to your petitioners and therefore it is impracticable to make them parties to this petition but your petitioners show that said Pinkerton and Drury, who signed said agreement, on behalf of the First Mortgage Bondholders, and

committee duly appointed and elected at the annual meeting of said Bondholders in November, 1867, and having the general supervision of the interests of said First Mortgage Bondholders; that they individually own, as your petitioners believe, a large amount, to wit: One hundred and forty thousand dollars of said Bonds, that their interests are identical with the rest of said First Mortgage Bondholders, and they fully and fairly represent them.

Your petitioners further show that said Hucker, Stanton and Taylor, who signed said agreement, on behalf of said Second Mortgage Bondholders, are a committee of said Second Mortgage Bondholders, having a general supervision of their interests; that they own Second Mortgage Bonds to a large amount, and as your petitioners believe, to the amount of one hundred and eighty thousand dollars; that their interests are identical with the rest of said Bondholders, and they fully and fairly represent them; and that said Taylor is one of the Trustees of said Second Mortgage.

Your petitioners further show that said Pinkerton, Cheney, Blake, Drury, Taylor, Millis, Brainerd and Clark, who signed said agreement, are owners of a large amount of said Equipment Loan Bonds, and to an amount, as your petitioners believe, of two hundred thousand dollars; that their interests are identical with the rest of said Bondholders, and they fairly represent them.

Your petitioners therefore pray, that, by the Decree and Order of this Court, said articles of agreement may be ratified and confirmed; and that said two former decrees may be so far modified as to conform to the same, and for such order of notice, and such further relief as to your Honor may seem meet."

Due notice having been given, the parties appeared by their counsel, and no objection being made thereto, the Court of Chancery, on the 22d day of May, A. D. 1868, passed a decree in conformity to said petition and the prayer thereof. Which petition, order of notice thereon and decree are referred to for greater particularity and may be found on pages 218 to 226 inclusive, of the printed Volume of Charters, Decrees and Leases.

A Decree authorizing the third Equipment Loan, April 13, 1869, is as follows:—

"Be it remembered that at a Court of Chancery begun and held at St. Albans within and for the County of Franklin aforesaid, on the second Tuesday of April, A. D. 1869, Lawrence Brainerd, Joseph Clark, J. Gregory Smith, Robert F. Taylor and Benjamin P. Cheney,

preferred their petition to said Court in the above entitled cause, setting forth, in substance, that they are the Trustees and Managers of the Vermont & Canada and Vermont Central Railroads, acting as such under an order of the Court in the above entitled cause; which order, with all other orders and proceedings in said cause, said petitioners make a part of said petition, and ask leave to refer to the same on the hearing.

And further setting forth, that, during the past three or four years, the Trustees and Managers of said Railroads have made large expenditures for said Trust in repairing the bridge at Rouses Point, and in building a draw therefor, in enlarging the docks at Burlington, and in putting new and additional equipment onto said roads; that all these expenses are necessary for the proper development of the Trust property, and by reason of these expenditures and other necessary expenditures, the business of the roads, during the time aforesaid, has greatly increased and is constantly increasing, and in consequence of these necessary expenditures there is a very considerable debt now due against the Trust.

And further setting forth that the Northern Transportation Company have, during the past year, doubled the number of their Propellers for transportation to and from Ogdensburg, and points west of there; and that by other arrangements recently made, it is expected that the business of the said roads must necessarily be largely increased, and the Trust property greatly benefited, but to meet this increase of business, new and additional equipment must be immediately added to the roads.

And further setting forth that the petitioners have consulted with the Directors of the Vermont & Canada Railroad Company; also with the committee of the First and Second Mortgage Bondholders, appointed and now acting under a former decree of this Court; and also with many other persons largely interested in said Trust; and all concur in thinking that said Petitioners shall be authorized, by the Court, to borrow money to pay said indebtedness, and to procure such additional equipment as may be necessary to meet the wants of said roads, to the amount, in the first instance, of one-half million of dollars; and a further half million of dollars in case the committee of the First and Second Mortgage Bondholders shall concur hereafter with said Petitioners in believing the interests of the Trust require it.

And further setting forth that there is now a large amount of equipment on said roads not covered by former Equipment Loans; that a great many of the persons interested in the Trust property are unknown to said Petitioners, and many reside beyond the jurisdiction of this Court, and that it is impracticable to make them parties to said petition;

that the following persons are largely interested in said Trust property, to wit: Joseph H. Dullis, Otis Drury, M. Hall Stanton, J. M. Pinkerton, W. J. Caner, William B. Stevens, Joseph H. Converse, and including said Petitioners represent over one and one-half millions of said securities against the roads.

And praying for the advice of the Court in the premises, and for an order authorizing said petitioners to borrow immediately one-half million of dollars, and hereafter another half million of dollars, in case said committee of First and Second Mortgage Bondholders aforesaid shall concur with said petitioners in thinking the interest of the Trust require it, upon such terms, conditions and securities as to the Court may seem meet.

The foregoing petition, verified by the oath of J. Gregory Smith, B. P. Cheney and Robert F. Taylor, having come on for hearing at the term of said Court aforesaid, to wit: On the first day of said term, and it appearing to the Court that the Directors of the Vermont and Canada Railroad Company, at a meeting called and held at Boston on the 9th day of April, 1869, voted to assent to a further issue of Equipment bonds, not exceeding one million dollars over and above the present issue; and the committee of the First and Second Mortgage Bondholders, to wit: Otis Drury, J. M. Pinkerton and W. J. Caner, appearing by the said J. M. Pinkerton, their Solicitor, and making no objection to the prayer of this petition; and also the following persons, largely interested in the Trust property, to wit: Joseph Dallis, M. Hall Stanton, William B. Stevens and Joseph H. Converse, appearing by their solicitor, Julian H. Dewey, and making no objection; the Vermont Central Railroad Company appearing by their solicitor Julian H. Dewey, and making no objection to the prayer of the petition; and the petitioners appearing by their solicitor, B. F. Fifield, and it appearing to the Court that the parties represented and appearing by counsel as aforesaid, fully and fairly represent all the various securities and interests pertaining to said Trust, and to an amount exceeding in the whole, more than four million of dollars; and it further appearing to the Court that the debt against the trust, in said petition mentioned, should and ought to be immediately paid, and that new and additional equipment ought to be procured to meet the increasing wants of the line:

It is now, therefore, ordered that said Receivers and Managers be authorized and empowered:

First, To borrow immediately, five hundred thousand dollars, for the purposes in said petition mentioned; and in order to raise said money

said Receivers and Managers are hereby authorized and empowered, as such, and free from all personal liability in respect thereto, to issue and dispose of their promissory notes, signed by Lawrence Brainerd, Joseph Clark and J. Gregory Smith, (a majority of said Receivers and Managers) with coupons attached, for such sums and on such times not exceeding twenty years from the date thereof, and at such a rate of interest, not exceeding eight per cent. per annum, payable semi-annually, free from the income tax, so-called, and payable at such places and times, both as to principal and interest, as they shall judge expedient; and specially to pledge and secure a lien to the holders of all such notes, equally and rateably, upon thirty locomotives, four hundred freight cars, ten passenger cars, two drawing room cars, five sleeping cars, and fourteen baggage cars, not pledged to former equipment Bondholders, under previous decrees of the Court, for the ultimate repayment of said loan, notes and interest; and to set aside from year to year, as a fund wherewith primarily to meet and liquidate said interest and principal, as the same may become due, the "Car Service," so-called, of all said engines and cars, so especially pledged for the security of said loan, notes and interest, said car service to be rated as follows, to wit: Freight car service, three and one-half mills per ton per mile; passenger and baggage car service, two and one-half cents per mile run; and locomotive service, twelve and one-half cents per mile run, and said sums so set aside shall be used,

First. To pay off such interest as it accrues and becomes due.

Second. To pay the expenses of keeping said cars and locomotives in repair. And the balance of said sums so to be set aside shall, after liquidating such interest and expenses of repairs, be and constitute a sinking fund, to accumulate and be kept separate from the general assets of said Receivers and Managers, wherewith to pay off and extinguish, ratably, said loan and notes, as they become due. And said Receivers and Managers may, in their discretion in the management of said sinking fund, either use the same from time to time to buy up said notes at their market value, or to buy such other securities of the roads under their management as may have been or may hereafter be issued; or if, in the judgment of the Receivers and Managers, the interest of the roads under their management shall require it for the proper development of said property, said funds may be invested in additional equipment of said roads, by building or purchasing cars and locomotives, in which case the same shall become, as fast as they shall be put into service, an additional security to the notes issued under this clause of this decree.

And in the event that said notes shall not be fully paid off or retired at or before their maturity, or if said interest shall not be paid from time

to time, as it shall fall due, the holders of all or any such dishonored notes shall be at liberty to apply to this Court for relief in the premises, by the enforcement and realization of their said securities; and if such funds shall exceed an amount sufficient to pay off all said notes and interest, such residue as well as said cars and engines shall fall into and become part of the general funds and assets of the Receivers and Managers. And all payments upon and securities for said notes and interest shall be shared in by and made to the holders of all such notes equally and ratably. It is also further ordered, adjudged and decreed:

Second. If, in the judgment of the Receivers and Managers and the committee of the first and second mortgage Bondholders aforesaid, it shall be deemed advisable for the interests of the Trust property that more money than five hundred thousand dollars, hereinbefore authorized, should be raised for the purposes in said petition mentioned, said Receivers and Managers are hereby authorized and empowered to borrow an additional sum of money, not exceeding Five Hundred Thousand Dollars, and to issue their notes therefor, free from personal liability in respect thereto, and in general similitude the same as those authorized in the first clause of this decree, and payable on the same time and rate of interest; and specially to pledge as security therefor ten locomotives, two hundred and twenty five freight cars, twelve passenger cars, sixty gravel cars, two baggage cars, and four locomotives, in the process of construction, (the foregoing equipment not being covered by the first clause of this decree or any other decree of this Court,) together with all such other equipment which may be procured with the funds raised under this decree.

All said last mentioned engines and cars are to be pledged and holden for the payment of all the notes issued under this clause of this decree, principal and interest. And the same provisions in relation to the application of the use and service of the said engines and cars to the creation of a fund for the ultimate redemption of said notes, and the payment of interest thereon, are hereby adopted and made a part of this clause of this decree in the same manner and to the same extent as in the first clause of this decree, and as fully as if recited herein; and the same remedies and rights given to the holders of the securities under the first clause of this decree are given to the holders of securities issued under the second clause of this decree; and the same authority and duties are given to and imposed upon said Receivers and Managers in respect thereto as under the first clause of this decree.

Done in Court this 13th day of April, A. D. 1869.

WILLIAM C. WILSON, Chancellor.

On the 28th day of October, 1869, the Trustees and Managers and the committee of the First and Second Mortgage Bondholders gave their assent to the issue of \$500,000 additional third equipment bonds in pursuance of the decree above recited, and that assent is as follows: "Whereas, by a decree of the Court of Chancery, of the State of Vermont, dated May, 1869, a loan of one million of dollars was authorized to be made by the Receivers and Managers of the Vermont Central and Vermont & Canada Railroads, in bonds bearing eight per cent. interest, secured by certain rolling stock of said roads; and whereas, it was further provided in said decree that one-half of said bonds might be immediately issued, and the other half whenever, in the judgment of said Managers and of the committee of the First and Second Mortgage Bondholders the interests of said roads might require: Now, we the undersigned, managers and committee as aforesaid, after due consideration of the premises and the interest of all parties concerned, do hereby express our judgment in favor of and assent to the issue of the balance of said loan, in bonds like those previously issued.

Boston, October 28, 1869.

J. M. PINKERTON,	}	<i>Committee of First and Second Mortgage Bonds.</i>
OTIS DRURY,		
M. H. STANTON,		
J. GREGORY SMITH,	}	<i>Trustees and Managers."</i>
ROBERT F. TAYLOR,		
B. P. CHENEY,		

On the first day of March, 1870, Robert F. Taylor resigned his said office of Receiver and Manager, and his resignation was thereupon accepted by the Court of Chancery.

Lawrence Brainerd deceased in May, 1870, and Worthington C. Smith was thereupon appointed one of the Trustees of said First Mortgage, to fill the vacancy occasioned by the death of said Brainerd, in accordance with the provisions of said mortgage deed. And by virtue of said appointment he was constituted one of the board of management, known as Trustees and Managers of the Vermont Central and Vermont & Canada Railroads, with the same rights and duties as the said Brainerd had under the Decree, providing for said board of management.

About the first of March, A. D. 1871, the Managers appointed Lawrence Barnes as one of the Board of management of the Vermont Central and Vermont & Canada Railroads, to fill the vacancy occasioned by the resignation of Robert F. Taylor, and on the 17th day of May, A. D. 1871, said appointment was confirmed by the Court of Chancery.

J. Gregory Smith, Joseph Clark, W. C. Smith, B. P. Cheney and

Lawrence Barnes, Trustees and Managers of the Vermont Central and Vermont & Canada Railroads, acting as such, on the 16th day of May, A. D. 1871, made their petition to the Court of Chancery, setting forth, among other things, as follows :

“ They further represent that they and their predecessors in office have heretofore made large expenditures in the construction of the Burlington and Swanton branches of the Vermont & Canada Railroad. The construction of these branches was rendered necessary in order to preserve the chartered rights of the Vermont & Canada Railroad Company, and they constitute a valuable and permanent part of the construction of said road. Of the amount thus expended by your petitioners and predecessors there remains an amount exceeding five hundred thousand dollars due from the Vermont & Canada Railroad Company, which has not been paid by them, and which is not represented by any stock of said Company.

And your petitioners represent that by the true intent and meaning of the contract of lease by the Vermont Central Railroad Company of the Vermont & Canada Railroad, referred to in the aforesaid cause, it was understood and expected that the whole cost of construction of the Vermont & Canada Railroad, including the two branches aforesaid, should be represented by the stock of the Vermont & Canada Railroad Company, and rent paid thereon, according to the stipulations of said lease.

They further represent that they have expended large sums in improving the road beds and the superstructure of the Vermont Central and Vermont & Canada Railroads, and in procuring additional equipments necessary for the useful and efficient operation of said roads, and for other purposes incident thereto.

The result of all which expenditures by your petitioners is that there is now outstanding against your petitioners a floating debt amounting to fifteen hundred thousand dollars, or thereabouts. It is important to the proper administration of the Trust property, under the management of your petitioners, that this debt should be funded or paid. If paid out of the net earnings of the roads, it will necessarily embarrass the payments of dividends and interest. Your petitioners have taken the advice of many of those largely interested in the Trust Property, and as the result thereof, have proposed to the Vermont & Canada Railroad Company that they should issue additional stock to the amount of five hundred thousand dollars, and deliver the same to your petitioners at par, to be disposed of, by them, for and on account of the expenditures made in the construction of the Swanton and Burlington branches of the Ver-

mont & Canada Railroad as aforesaid ; provided said stock shall be distributed among those who are stockholders of record in said Company at this date (May 16, 1871,) pro rata, at par value, if they shall signify their option to take the same by notice in writing to the Treasurer of said Company, or Edward Blake, Transfer Agent, Boston, Mass., on or before the first day of June next, and pay for the same on or before the first day of July next, with eight per cent. interest after June 1st, 1871.

Second. That the said Vermont & Canada Railroad Company endorse and guarantee the notes of said Trustees and Managers to the amount of one million dollars payable in twenty years from date (July 1st, 1871,) and bearing interest, at the rate of eight per cent. per annum, payable semi-annually, free from the United States income tax ; provided said Trustees and Managers execute a writing to said Vermont & Canada Railroad Company, agreeing to pay said notes, principal and interest, as it becomes payable, and if they fail to do so, that the Vermont & Canada Railroad Company shall have the right to apply for a summary order, on petition, for relief, in the cause of Vermont & Canada Railroad Company against the Vermont Central Railroad Company *et als.*, to protect them against such liability, and for such appropriations of the earnings of the roads, as to the Court shall seem just and equitable and in accordance with the prior orders and decrees of the Court in said cause.

Your petitioners further show that the foregoing proposition has received the assent and approval of the Vermont & Canada Railroad Company, and the Vermont Central Railroad Company, at meetings of their respective Stockholders, and also the assent and approval of the Committee of the First and Second Mortgage Bondholders, now acting as such, and representing their interests, as provided in the prior order of the Court in the above entitled cause, and, as your Petitioners believe, will commend itself to the judgement of the Court.

They therefore pray for an order : 1st. That the Vermont & Canada Railroad Company issue their additional stock to the amount of five hundred thousand dollars, and deliver the same to said Trustees and Managers, at par, to be disposed of by them for and on account of the expenditures by them made in the construction of the Swanton and Burlington Branches of the Vermont and Canada Railroad, with a proviso the same as is contained in the proposition in said Petition mentioned, and that such expenditures be declared to be part of the cost of construction of the Vermont & Canada Railroad ; and that said stock shall represent the same and be entitled to dividends as representing the same, in the same manner and with the same priority of right as to earnings as

the present outstanding stock of the Company. 2d. That said Trustees and Managers be authorized to issue their notes for one million dollars, payable in twenty years from date, and bearing interest at the rate of 8 per cent., payable semi-annually, free from United States income tax, and that they be empowered to indemnify said Vermont & Canada Railroad Company against their endorsement and guaranty of said notes, according to the terms of the proposition aforesaid. 3d. For such other orders as to the Court may seem meet.

The Decree of the Court of Chancery on said petition is as follows: "The foregoing petition, verified by oath, having been duly filed and presented to me, and it appearing that the Vermont & Canada Railroad Company, by its Stockholders' vote, have voted to issue their additional stock and to endorse and guarantee the notes of said Trustees and Managers, in accordance with the proposition in said petition mentioned; and it appearing that the Vermont Central Railroad Company, by Stockholders vote, have also approved of and assented to the same proposition; and both companies appearing, by their solicitor, and assenting that the prayer of said petition be granted; and the committee of the First and Second Mortgage Bondholders appearing, by one of their number, personally, to wit: Otis Drury, having authority to act for the whole, as well as by their Solicitor, and assenting to this decree; and it appearing that the facts in said Petition mentioned are true; it is now here ordered adjudged and decreed:

First, That the Vermont & Canada Railroad Company issue their additional stock to the amount of one-half million dollars, and deliver the same to said Trustees and Managers at par for and on account of the expenditures by them made on the Swanton and Burlington Branches of the Vermont & Canada Railroad, as in said petition set forth; provided said stock shall be distributed among those who are Stockholders of record in said Company, of this date, to wit: May 16, 1871, pro rata at par value, if they shall signify their option to take the same, by notice, in writing, to the Treasurer of Said Company, or Edward Blake, Transfer Agent, Boston, Mass., on or before the first day of June next, and shall pay for the same on or before the first day of July next, with eight per cent. interest after June 1st, 1871.

And it is hereby declared that the expenditures made as aforesaid, upon said Swanton and Burlington Branches, are a part of the cost of construction of the Vermont & Canada Railroad, and said Stock, as representing such expenditures, shall be entitled to dividends in the same manner and with the same priority of right as to the earnings as the present outstanding stock of the company.

Second, Said Trustees and Managers are hereby authorized to issue their notes, as of the first day of July, 1871, to the amount of one million of dollars, payable in twenty years from date, and bearing interest at the rate of eight per cent. per annum, payable semi-annually, free from United States Income tax, and they are hereby authorized to indemnify the Vermont & Canada Railroad Company against the endorsements and guaranty of said notes by a proper contract, stipulating among other things, that on their failure so to do the Vermont & Canada Railroad Company shall have the right to apply for a summary order, on petition for relief in this cause, to protect them against such liability, and for such appropriations of the earnings of the roads as to the Court shall seem just and equitable and in accordance with the prior orders and decrees of the Court in this cause.

Done in Court this 17th day of May, A. D. 1871."

By the Decree of April 14, 1866, the indebtedness covered by the First Mortgage of the Vermont Central Railroad Company was increased to \$3,000,000 by capitalizing the back interest which had remained unpaid up to that time. The interest due on said Mortgage, at the time of the decree, was more than \$1,000,000, but by a compromise the interest so due, above that sum, was waived or given in, and the indebtedness, covered by the mortgage established at \$3,000,000, as above stated, and said mortgage was enlarged to cover that sum.

The amount of interest paid on this Mortgage debt appears in the aggregate on Exhibit No. 35, at \$1,556,532.68, but the several dates and amounts of payment aggregating this sum do not appear. By the Decree of May 1st, 1867, the Receivers and Managers were directed to pay with the notes of the S., S. & C. Loan, the installments of interest falling due on the First and Second Mortgage Bonds of the Vermont Central Railroad Company, on the first days of June and December then next, to the several persons holding said Bonds, and it was in and by said Decree of May 1st, 1867, ordered that the same be accepted and received by such Bondholders in full payment and discharge of said installment of interest on their respective bonds to that date. No interest has been paid on said Mortgage since June 1st, 1872, but it had all been paid, as above stated, up to said June 1st, 1872.

And by the Decree of April 14th, 1866, the indebtedness covered by the Second Mortgage of the Vermont Central Railroad was fixed and established at \$1,500,000.

This arrangement was brought about by a compromise; the Bondholders of that Mortgage waiving or giving in all the unpaid back inter-

est and establishing the indebtedness covered by said Mortgage at \$1,500,000 as above stated.

There has been paid in interest upon this Mortgage \$92,444.60, as appears on Exhibit No. 35. And the payment was made to some extent, if not wholly, by the bonds of the S., S. & C. Road in pursuance of the Decree of May 1st, 1867, as above mentioned; and no payment of interest upon this Mortgage has been made since the time limited in the last named decree, for the payment of the interest in the bonds of the S., S. & C. Loans so called.

By Decree of January 19th, 1864, the Vermont & Canada stock was increased to \$2,250,000. By Decree of May 1st, 1867, it was increased to \$2,500,000. And by Decree of May 17th, 1871, it was further increased to \$3,000,000, where it has since remained. By the Decree of July 13th, 1861, the stock of the Vermont & Canada Railroad was fixed at \$1,348,500. By the Decree of January 19th, 1864, said stock was increased to \$2,000,000, thus capitalizing the back unpaid interest.

All the rent has been paid to the Vermont & Canada Company to June 1st, 1872, and the rent so paid amounts in the aggregate to \$1,812,592. The several payments and dates thereof aggregating that sum may be found on Exhibit No. 35. No rent or incidental expenses have been paid to the Vermont & Canada Railroad Company since June 1st, 1872. These payments cover rent and they also paid the incidental expenses of said Vermont & Canada Company. The Trustees and Managers disposed of the several issues of stock as follows: \$651,500 to liquidate over due rent, \$340,308.98 on account of amount paid on account of Swanton Branch, \$327,221.02 on account of Burlington Branch, \$114,460 on account of certificates of indebtedness and interest thereon. On account of wharfing, \$207,509.16; \$90,000 on dividends ordered by Decree.

These sums more than absorbed the amount of stock authorized by the Court. See Exhibit 24 A, and Vermont & Canada Railroad Stock account filed in Court December 30, 1873.

By Decree of September 7th, 1865, the first Equipment Loan of \$700,000 was authorized.

Interest has been paid upon this loan amounting in the aggregate to \$413,614, as appears by Exhibit No. 35.

The amount of bonds issued under this loan was \$700,000. And the money appropriated as stated in the Receivers account as filed in Court, and may be referred to on paper designated as "First Equipment Loan."

The expenditures upon the property securing this loan and the payments of coupons on said loan amount in the aggregate to \$829,452.27, and the income arising from the use of said property amounts in the aggregate to \$731,397.31, leaving a balance of expenditures over the income of \$98,054.96.

The items aggregating these amounts and the dates thereto may be found on Exhibit No. 66, relating to sinking fund of First Equipment Loan.

The several payments of interest upon this loan with dates of such payments may be found on said last named Exhibit. A second equipment loan of \$300,000 was authorized by Decree of May 1st, 1867. And the amount of interest paid upon that loan, in the aggregate, is \$130,666. And the amount of bonds issued under that loan is \$300,000, and the amount received for these bonds is \$300,000, as appears by the Receivers' account filed in Court and designated "Second Equipment Loan." The amount of expenditures upon the property securing this loan, including the payment of interest coupons, is \$461,336.42. The amount of income derivable from said property is \$536,592.40, leaving a balance of net income of \$75,258.98.

The several items and dates thereto aggregating the above sums may be found on Exhibit No. 67, touching the second equipment loan sinking fund. And in this exhibit, the several amounts of interest paid to retire the interest coupons, may be found.

By a Decree of April 13, 1869, an Equipment loan of \$1,000,000 was authorized; \$500,000 of this loan was authorized absolutely, and \$500,000 more was authorized provided the issuing of notes to the last named amount should be recommended by the Committee of Bondholders and the Trustees and Managers.

On the 28th of October, 1869, said Committee and the Trustees and Managers did assent to the issuing of the last named \$500,000 in bonds contemplated in said Decree. The first issue of \$500,000 of said loan is denominated the Third Equipment Loan, and the second issue of \$500,000, under the assent of said Committee and Trustees and Managers is denominated the Fourth Equipment Loan. One million of dollars of bonds was issued under this loan. Cash was received thereon to the amount of \$962,999.05; discount allowed on bonds sold, \$36,000.95; and one bond given to Vermont Central Library Association, \$1,000; aggregate, \$1,000,000.

The discount above named was for commissions in making sales of said bonds. See account filed in Court by Receivers designated as the Third Equipment Loan.

This payment of \$1,000 to the Vermont Central Library Association, more particularly detailed in another part of this report, was made by the delivery of one of these bonds of the denomination of \$1,000 to said Library Association.

Interest has been paid upon the Third and Fourth Equipment Loan to the amount of \$302,304, as appears by Exhibit No. 35.

The expenditures made upon the property holden to secure this loan, and the payment of interest coupons on Third Equipment Loan, amount to \$645,481.56; and the income arising from said property amounts to \$536,748.24; leaving a balance of expenditures over income of \$108,688.32, as appears by Exhibit No. 68, relating to Third Equipment Loan Sinking Fund.

The several amounts paid on interest coupons touching said loan with the dates may be found on said last named Exhibit.

The statement of the 4th Equipment Loan Sinking Fund shows, simply, the payment of interest coupons with dates of the respective payments, the aggregate of which is \$100,000. This Loan, as before said, is embraced in the Decree authorizing a loan of \$1,000,000, and the income from the property held as security for said loan was absorbed in the sinking fund of the 3rd Equipment Loan.

The amount paid out, including interest, over the receipts arising from the use of the property held as security for said several loans is \$231,479.30.

By Decree of April 20, 1872, a further loan of \$2,500,000 was authorized, \$700,000 of which was to retire the bonds held under the First Equipment Loan, and when retired this Loan was subrogated to the security held under said First Equipment Loan, and further, that the notes issued under the Decree of April 20, 1872, were to constitute a lien and charge upon the Trust property under the control of said Trustees and Managers and the earnings thereof.

Under this Decree bonds were issued to the amount of \$2,500,000, \$1,000,600 of which were sold at a discount of ten per cent., \$1,499,400 remaining unsold, \$700,000 of which are held to retire the bonds of the First Equipment Loan. Most of the bonds sold were sold for cash; a few of them were exchanged with the holders of the floating debt, to apply on such indebtedness; \$799,400 of said issue are now in the possession of the Central Vermont Company, and have been deposited with different parties as collateral security for money loaned to the Trust. Most of them are held by the banks where the Receivers and Managers do their business. The bonds issued under this Decree are called

"Income and Extension Bonds." Interest to the amount of \$38,140 has been paid on these bonds, as appears by Exhibit No. 35.

In and by the Decree of May 17, 1871, a loan of \$1,000,000 was authorized, which was, by the terms of the Decree, to be guaranteed by the Vermont & Canada Company, and is called the "Guaranteed Loan."

Bonds were issued under this loan to the amount of \$1,000,000. The Trust received, in cash, on the sale of a portion of said bonds, \$867,291.50.

There was a discount on the amount sold of \$14,854.58. \$21,853.92 is now due from Spencer, Vila & Co., brokers, in Boston, who had the sale of some of said bonds, and failed, by reason of which that amount is now due the Trust.

Ninety-six thousand dollars of said issue were turned over to the Central Vermont Company by the Trustees and Managers.

Interest has been paid upon this issue of bonds to the amount of \$93,420, as appear by Exhibit 35. A statement of the account in relation to this issue may be found in the account of the Receivers, filed in Court, under the name of the Vermont Central "Guaranteed Bond Account."

By decree of May 1, 1867, a loan of \$500,000 was authorized, called the "S. S. & C. Loan." This loan was secured by a lien upon the original bonds and stock of said S. S. & C. Road. Under this loan \$500,000, of bonds were issued. The Trust credit themselves by amount of Bonds issued for First and Second Mortgage Bond Coupons, and for cash, ten per cent. on Bonds to amount of \$135,170.53, \$420,600.

By amount of Bonds issued and sold for cash, \$23,500. By balance of Bonds on hand, \$55,900. Said credits equaling the amount of bonds issued.

And a statement of the account of these bonds filed in Court, by the Receivers, may be found on the S., S. & Chambly bond account. The amount of interest paid on these bonds is \$152,182.84 as appears by Exhibit No 35.

Certain English creditors of the S., S. & C. Railroad Company, held some of the original bonds of that road, as collateral security, as elsewhere stated more fully, and interest has been paid on said original bonds to the English creditors to the amount of \$40,880.82, as appears by Exhibit No. 35. Part of this last amount was paid in gold, and part in American currency as appears on Exhibit No. 8, where dates and amounts of the several payments of interest to the English creditors are given. Besides there was a payment of interest to said English

creditors stipulated for in the contract between the Trust and said English creditors, which is elsewhere referred to and made a part of this report.

The floating debt of the trust as represented in what is called the "Horticultural Hall Report," was \$2,878,164.42, as of June 1, 1872.

The floating debt of the Trust July 1st, 1873, as shown by Exhibit 84, was \$2,636,265.34, which last sum includes \$64,835.10, of unpaid coupons.

Interest has been paid on the floating debt June 1, 1862, to July 1, 1873, to the amount of \$473,158.22, as appears upon Exhibit No. 35, where the items aggregating this amount are set down with dates of such payments.

The Vermont & Canada Railroad Company knew that the Trustees and Managers were paying interest upon the First Mortgage Bonds, and no objection was made thereto by said Vermont & Canada Company.

The decree of May 1st, 1867, which recites the petition, the Director's meeting of the Vermont & Canada Company, held April 11th, 1867, and the vote of the Stockholders at a meeting, held April 22d, 1867, may be referred to as evidence pertaining to this, and showing consent on the part of the Vermont & Canada Company.

Notice of the payments of interest was advertised in the newspapers and many of the Stockholders in the Vermont & Canada Company were holders of the First Mortgage and Equipment Loan Bonds.

All the several orders and decrees were made by the consent and with the approbation of the Vermont & Canada Railroad Company, and the committee of the First and Second Mortgage Bondholders, as appears from the petitions, orders of notice thereon, and the several decrees of the Court of Chancery; also from the Horticultural Hall report of October, 1872, page 8, which is made an exhibit in the case.

The net earnings of the Vermont Central and Vermont & Canada Roads for the thirteen months ending July 1st, 1873, was \$440,321.88, as appears from Exhibit No. 21.

We do not find any exhibit showing the net earnings since 1861 to July 1873, but if it appears in any of the papers filed, counsel can refer to them on trial.

After the Vermont Central Railroad Company failed, its stock was sold at Sheriff's sale, and was bid off at such sale by J. Gregory Smith, who has ever since been the owner thereof.

The officers of the Vermont Central Railroad Company appear in detail on Exhibit No. 103, which is referred to.

The officers of the Vermont & Canada Railroad Company, appear in detail on Exhibit No. 96, which is referred to.

By the decree of January 19th, 1864, above referred to, an advisory committee of First Mortgage Bondholders was created, and that portion of the decree relating thereto is as follows :

That the said O. W. Davis, Joseph Andrews and Otis Drury, the present committee of said First Mortgage Bondholders, and their successors, as such committee, who shall be appointed annually by such bondholders, at a public meeting, called upon reasonable public notice for that purpose, shall constitute an advisory board in respect of the management of said roads and property with the right to advise the Trustees and Receivers in respect thereto, and with the right at all times to examine and inspect the books, papers and accounts of said Trustees and Receivers in respect of the premises, and said Trustees shall, on reasonable request, give such committee all the information in their power, respecting their plans and policy in the management of the business of said roads. "And the said committee shall constitute the auditors of the accounts of said Trustees and Receivers; and said Trustees and Receivers shall annually report to this Court their accounts in the premises, and if said auditors shall approve the same they may be allowed and passed without further proceedings, but if any part thereof shall not be approved by said Auditors, the usual reference shall be made for examination and decision according to the course of this Court."

By the decree of April 14th, 1866, the decree of January 19th, A. D. 1864, was modified as follows :

"The advisory board provided for in said decree of January 19th, 1864, in this Court, shall hereafter, until otherwise ordered, be constituted of two First Mortgage Bondholders, to be appointed by the First Mortgage Bondholders in the manner provided in said last named decree, and of one Second Mortgage Bondholder to be appointed by said Second Mortgage Bondholders, which board shall have and exercise the powers in said last named decree provided for."

In pursuance of the Decree of January 19th, 1864, the Bondholders of said First Mortgage, held a meeting in Boston on the 18th day of February, A. D. 1864, to elect the Advisory Committee contemplated by said Decree. And their doings at said meeting and all meetings held by said First Mortgage Bondholders under the provisions of said Decree, may be found in a book of Records of the Vermont Central First Mortgage Bondholders, and marked Exhibit No. 87. It appears from these records that the last meeting held was November 30th, 1870.

It did not appear who of said Bondholders attended said meeting; nor did it appear whether Rush C. Hawkins or Austin Birchard attended any of said meetings.

For a full detail of the amount of bonds and stock issued and disposition thereof, amount of cash received thereon and discounts in the sale of said bonds, reference may be had to Exhibits 18a, 19a, 20a, 21a, 22a, 23a, 24a and 25a, as filed before the Masters by the Receiver.

Money received from all sources was paid into the general funds of the Trust, and money paid out for any purpose was paid from the general funds of the Trust.

But one fund was kept. The books of the Trust were so kept as to indicate the receipts and payments pertaining to any one branch of the business.

This answers the various requests for findings in relation to what funds payments were made from, and also requests as to the several sinking funds provided for by the Equipment loans.

We allow the several payments of interest on the Vermont & Canada stock, the First and Second Mortgage Bonds and the Equipment loans, as charged, under objection of counsel.

The several decrees of the Court of Chancery touching the Equipment loans, limit the rate of interest at which said loans might be made, as will more fully appear on reference to said decrees.

The Receivers realized all they were able to on the sale of these bonds, and the discounts and commissions were incident to the disposition of said bonds.

This is equally applicable to all the bonds and stocks disposed of by the Receivers and Managers.

The several Equipment loan accounts show what was done under the decrees authorizing said loans.

Joseph Clark, J. Gregory Smith and B. P. Cheney each, took \$100,000 of the bonds authorized by the Decree of April 20th, 1872, creating a loan of \$2,500,000, called the "Income and Extension Bond Loan," at ninety cents on the dollar, the price at which said Bonds were put upon the market.

These bonds were so taken by said Clark and Smith to apply upon an indebtedness of the Trust to said Clark and Smith for advances they had made the Trust. The same is true with reference to the transaction with said Cheney, except that the indebtedness liquidated by the bonds did not quite equal the amount of bonds he took, he paying a few thousand dollars in ready money to make up the balance for the bonds he

took. These bonds were put upon the market at the highest price they would bear. The Committee of Bondholders consulted with the Receivers in relation to the price at which said bonds should be put upon the market, and claimed that unless the Receivers came forward and started the subscription on that basis it would be very difficult to negotiate the loan.

In relation to this issue of bonds, a question was raised as to their validity, and the nature of the security held for their ultimate redemption—and the opinion of Judge B. R. Curtis and Judge J. G. Abbott, of Boston, was sought and obtained in relation thereto, for which the Trust paid them \$500 each, and said payments are allowed as charged, under objection.

The Trust had on hand, June 1st, 1858, forty-two locomotives, seven hundred and sixty-seven freight cars, twenty-six passenger cars and nine baggage cars, upon which there was no incumbrance, save that created by the First and Second Mortgages.

May 31st, 1864, the Trust had forty-four locomotives, thirty-four passenger cars, eight baggage cars, nine hundred and fifty-one freight and four gravel cars.

They had on hand, June 1st, 1866, sixty-one locomotives, forty-one passenger cars, fourteen baggage cars, eleven hundred and sixty-three freight and forty gravel cars; 1867, they had eleven hundred and nine freight cars.

June 1st, 1872, eighty five locomotives, fourteen hundred and twenty-five freight cars, valued at \$1,004,625; forty-nine passenger cars and twenty other cars.

On the 4th of August, A. D. 1865, when the Receivers made their petition to the Court of Chancery for the First Equipment Loan above-stated, they were providing equipments and appliances for over two hundred and seventy miles of railroad; while at the time they began their office under the Decree of 1861, above referred to, they operated only about one hundred and sixty-six miles of road, as appears from said petition.

Spencer, Vila & Co., above named, were reputable brokers in Boston, and the Trust employed them to negotiate bonds and stock of the Trust on commission. In 1872 they had the sale of "Income and Extension Bonds."

The Board of Management and Trustees had a conference in relation to the sale of these bonds, and it was discussed by them, whether they would employ Spencer, Vila & Co., who had previously been employed by them in the negotiation of the securities of the Trust.

It was decided that they would employ them to negotiate the Income and Extension Bonds, and the price at which they were to be negotiated was fixed at ninety cents on the dollar.

Mr. B. P. Cheney, on behalf of the Board of Management saw said firm and made arrangements with them to sell the bonds.

Spencer, Vila & Co. claimed commission on all the bonds put into their hands for negotiation, and when Mr. Cheney assisted in selling some of the bonds and took them from Spencer, Vila & Co., still said company claimed a commission on them.

In one instance the Washburn Iron Co. had quite a large amount of the Income and Extension Bonds. Negotiations for the sale of which were partly conducted by Mr. Cheney, and partly by Spencer, Vila & Co.; and Spencer, Vila & Co. claimed the commission on them because they commenced the negotiation, and understood it to be a money transaction by which they were to receive the money directly from the Washburn Iron Co.; whereas, said Iron Co. took the bonds to apply on a debt they had against the Trust.

Mr. Cheney was in doubt whether the Trust should pay Spencer, Vila & Co. the commission they claimed, and consulted with Mr. Swift, President of the Fitchburg Railroad, as to whether he thought the charges of Spencer, Vila & Co. should be allowed, and on such consultation both came to the conclusion that inasmuch as Spencer, Villa & Co. had spent time in negotiating the bonds, it was fair to allow the commission, and the commission was paid them (\$1,500).

Before all the bonds placed in the hands of Spencer, Vila and Co. were disposed of by them, said Company failed with a balance in their hands of \$21,853.92 in favor of the Trust, which balance appears upon the ledger of the Trust and the account has been turned over to the Central Vermont Co.

The Managers were in the exercise of reasonable prudence in placing said securities in the hands of Spencer, Vila & Co. for sale, and we do not think them in fault in the transaction, and, therefore, do not charge them with the loss, if it proves to be one, to the Trust.

We allow the \$1,500 paid Spencer, Vila & Co., as commission, as charged in the Receivers' accounts.

Vouchers 791, 792 and 794, amounting to \$4,000, were for cash paid Hon. David A. Smalley. Said vouchers are as follows:

"BURLINGTON, January 27th, 1859.

"Received of Hon. Lawrence Brainerd, \$3,000, for expenses and money paid out at the Legislature and preparatory thereto, for the Vermont & Canada Railroad, at the October session of 1858.

D. A. SMALLEY."

Voucher 792.

"Received of Hon. Lawrence Brainerd, Trustee, \$500, for portions
"of money expended in Legislative matters, on behalf of the Vermont
"& Canada Railroad, at the October session of 1858.

D. A. SMALLEY."

At the bottom of this there is a pencil note in Mr. Brainerd's hand-writing, "Paid, Aug. 11th, 1859."

Voucher 794.

"Received of Lawrence Brainerd, \$500, on account of services, &c.,
"as Master in Chancery, in Vermont & Canada and Vermont Central
"Railroad and Trustees, Aug. 12th, 1861.

D. A. SMALLEY."

These vouchers were credited to Mr. Brainerd, January, 1868.

The facts touching the payment of the \$3,500 for legislative expenses are sufficiently detailed in the foregoing part of this report, and may be referred to.

The money so paid by Mr. Brainerd was repaid to him from the funds of the Trust, and the several sums so paid are allowed, as charged in the Receivers' accounts.

Voucher 793 is as follows:

"Received of S. L. Howe \$700, out of the funds belonging to the Trustees, in his hands, as Station Agent, and this he will return to cashier at Northfield, as cash to be charged to him, and to be accounted for by him.

J. GREGORY SMITH, Trustee, &c.

Montpelier, Dec. 21, 1859."

"The above was for expenses incurred before the Legislature, in obtaining an act relating to the branch at Burlington, and is to be charged to the Vermont & Canada Railroad.

J. G. S."

The amount in this voucher was charged to the Trust and credited to Mr. Brainerd, at the same time the Smalley vouchers were credited to him, January, 1868.

The voucher itself shows the appropriation of the money, and is allowed by the Masters as charged in the Receivers' account.

Voucher 2982 is "For bill of expenses, J. D. Hatch, at Montpelier.—Session, 1861. \$135."

Voucher 108 is for cash paid expenses of J. D. Hatch, at Montpelier,—Session, 1862; \$145.

Voucher 6431 is "For expenses of J. D. Hatch, at Montpelier, 1863, for procuring charter of Eastern Vermont Road, including amount paid for advertising, &c., &c., \$237.50.

Voucher 8014 is "For expenses of J. D. Hatch, at Montpelier," dated Nov. 29, 1864, advertising copies of charter, incidental expenses, &c., \$397.65."

Voucher 9066, Sept. 1st, 1865, is for "Cash paid J. D. Hatch, board and traveling expenses, on business for the Company, year ending March, 1865,—\$358.92."

Voucher 1471, Dec. 16, 1865, is "For J. D. Hatch's incidental expenses at Montpelier—Session 1865,—\$130.85."

Voucher 2457, April 6, 1866, is, "For J. D. Hatch's expenses, \$338.15."

Voucher 4575 is for "Cash paid J. D. Hatch, Nov. 1866, for expenses, retainers, and self, at Montpelier, \$168.85."

Voucher 5969, dated April 1st, 1867, "Paid for retainers, board, traveling expenses, &c., \$425," and signed by J. D. Hatch.

Voucher 5540, January 1, 1868, signed by J. D. Hatch, is for traveling expenses, and expenses before the Legislature, Session of 1867,—\$463.53.

Voucher 1551, Nov. 21, 1868, \$615.45,—J. D. Hatch—is for expenses at Montpelier—Session 1868, in resisting adverse legislation and opposing plan to construct parallel road from Burlington to Canada Line.

Voucher 2012, January 1869, \$447.63—J. D. Hatch—is for cash paid travelling and incidental expenses, on business of the Company, year ending December, 1868.

J. D. Hatch received cash from the Trust December 6, 1869, which was paid to him from what is called the Secret Service Fund—\$1,000; December 28, 1869, \$1,500; January 5, 1870, \$3.50.

At the time this money was paid to said Hatch, he supposed it was paid from the general fund, and had no knowledge of the so-called secret service fund.

The voucher for the \$1,000 bears date December 6, 1869, but the money which made up that amount had been drawn from time to time during the Summer and Fall before, and on settlement of these several sums so drawn by said Hatch, the various sums were aggregated in this voucher and the receipts for the several parcels taken up by said Hatch.

A portion of voucher 8810, J. D. Hatch—is for preparation for session of Legislature in 1870, expenses during session in resisting adverse legislation, and defeating general Railroad law, application for Northern Railroad Charter, Railroad tax law, &c., &c., \$786.50.

In the Summer of 1869, certain parties were agitating the project

of a Railroad from Burlington to Canada Line parallel to, and near the Trust line of roads, and it was then understood by the Trust, that the Rutland & Burlington Railroad Company were interested in the project and that there would be a contest in the Legislature in relation thereto.

The granting of a charter and the construction of a road over the projected route would have been very prejudicial to the Trust, and therefore preparations were made to resist the granting of the charter. And as one of the steps taken by the Trust as a counter influence, notice was given, by publication, for a charter from Burlington to Rutland. In procuring the notice to be published for the charter from Burlington to Rutland, Mr. J. D. Hatch, acting for the Trust, called on Wheelock G. Veazey, an attorney at Rutland, and employed him to attend personally to getting the advertisements inserted in the several newspapers, as it was necessary that they should be inserted that week in order to give sufficient notice.

In pursuance of this engagement, Mr. Veazey spent about two days time, and paid out expenses amounting to about thirty dollars, for which he charged the Trust \$50, and the same was paid to him by Mr. Hatch in October, 1869.

In further preparation resisting said charter sometime previous to the session of the Legislature in 1869, said Hatch employed Hon. John W. Stewart, an attorney at Middlebury, to assist at the hearing before the Legislature in relation to said charter. And in pursuance of said engagement, when the matter came up before the Committee of the Legislature, Mr. Stewart went to Montpelier to assist in the hearing, and was several times in consultation with Judge Poland and Mr. Fifield, who were also counsel for the Trust before the Committee. On ascertaining that the Rutland & Burlington Company took no part in the investigation, Mr. Stewart regarded further services on his part unnecessary, and left for home. As he was about leaving, said Hatch ascertained the amount of his bill, and paid him \$100 in full for his services as attorney in the matter.

On the 7th day of July, 1869, said Hatch retained Hon. H. H. Powers, Morrisville, as an attorney for the Trust, which retainer was for one year; and at that time said Hatch paid him \$50 as a retainer fee.

During the session of the Legislature of 1869, Mr. Hatch informed Judge Powers that a matter was before the House Committee on Railroads relating to a charter from Essex to Swanton, and that if the hearing progressed, it was likely to be sharply contested, and that they might desire him to appear before the Committee.

told Mr. Hatch that he did not suppose that lasted forever, without some renewal. Mr. Hatch then told Mr. Dale that he desired to have him in the interest of the road in their law business. Nothing more was said about it till the day after the session of the Legislature of 1869, as Mr. Dale was about to leave Montpelier for his home, when Mr. Hatch asked him up into the room, and told him that he was prepared to make an arrangement to continue him in the interest of the road. Mr. Hatch wanted to know what would be satisfactory. Mr. Dale spoke of a Railroad that was paying him \$100 retainer, but told Mr. Hatch that the Vermont Central being away was not liable to have so much business. Mr. Hatch indicated \$50 as the amount, and Mr. Dale said it would be satisfactory, and said Hatch then paid Mr. Dale that amount, and took his receipt for the same. Since then Mr. Dale has declined to bring a suit against the road when he was applied to for that purpose.

On the afternoon of the last day of the session of the Legislature of 1869, said Hatch retained Mr. P. K. Gleed, an attorney at Morrisville, for one year, and paid him therefor \$50.

In the Winter of 1868-9, or early in the Spring of 1869, Mr. J. E. Dickerman, an attorney then residing in Derby, met Mr. Hatch in Burlington, and Mr. Hatch informed him that the Railroad Company were being constantly annoyed by claims for lost baggage, and injuries to freight, &c., and that the Company or Trustees had instructed him to employ or retain counsel in different parts of the State, so that when such a thing occurred in their County, they might call upon them, and know when they wrote to them, that they would not be on the other side, and that they desired to retain him. To which Mr. Dickerman gave his assent. Mr. Dickerman made no charge of the retainer, as he was then holding a pass of the Railroad Company.

No further allusion was made to it till after the session of 1869.

As Mr. Dickerman was about to leave for home on the morning after the close of the business of the session, Mr. Hatch called his attention to the fact that he had spoken to him about a retainer, and as he had been instructed, he desired to pay for a retainer, and that Mr. Dickerman should hold himself in readiness to answer any call that should be made upon him in the section where he resided, in relation to legal business. Mr. Hatch paid him \$50, for which he gave him a receipt.

In May, 1869, or the latter part of April, in passing from Essex Junction to St. Albans, Governor Hendee fell in with Mr. Hatch, and had some talk with him about being retained for the Vermont Central Railroad. Mr. Hatch asked him if he would be retained for them, and

he replied that he had no objection to being retained, provided it was on condition that the retainer should not interfere, in any way, with his obligations to the Portland & Ogdensburg Railroad, of which Company he was a Director. The retainer was made with the qualification suggested by Governor Hendee. For this retainer Governor Hendee charged the Railroad Company \$50.

While at Montpelier, and after the session of the Legislature had closed, Governor Hendee went to Mr. Hatch and told him that he had charged the retainer as said Hatch suggested, and asked him if he would pay it, or whether he, Governor Hendee, should get it at St. Albans. Mr. Hatch asked him what he charged, and he told him \$50. And Mr. Hatch then paid him that sum for, and on account of said retainer.

The legal business of the Trust had, before the above named retainers, been mostly done by two or three attorneys, who were the regular attorneys of the Trust, but as the business had increased upon the road, claims became more numerous, requiring the attention of attorneys in different parts of the State, and upon consultation with their regular counsel, the Trustees and Managers instructed Mr. Hatch, who was a general Agent of the Trust, to employ such attorneys in different portions of the State as he thought best, and in pursuance of such instructions, the above retainers were made.

The items paid Powers, Veazey, Pingree, Tarbell, Gleed, Dale, Dickerman, Hendee, Haskins and Stewart, above named, appear in "Exhibit A," of the appendix to the investigation of Legislative Committee, which is referred to and made a part of this report, and may be found on pages 1 and 2 of said appendix. Another item of \$430 appears in said voucher, which is for the incidental expenses of said Hatch during the Summer and Fall of 1869, and for his incidental expenses while attending the session of the Legislature in 1869.

It was the custom of Mr. Hatch from time to time to draw funds from the Trust, leaving his receipt therefor, with the officials of the Trust, and when such funds, so drawn from time to time, were expended by him, he would return the items of such expenditure to the Trust in the form of a voucher for the Trust, and take up the several receipts he had before given for the sums of money so drawn by him.

The voucher dated December 6th, 1869, and above referred to as "Exhibit A," appears upon its face to be "for expenses at Montpelier, session of 1869, in resisting adverse legislation, and in preparation for and opposing application for parallel road from Burlington to Canada Line, &c., &c.," and is true in part, but should be qualified according to the facts above detailed, in order to state the whole matter.

Said Hatch drew this money, making the \$1,000, from time to time, as his custom as above stated, and on the 6th of December, 1869, drew in the above named voucher to the Trust, and settled the items drawn in the voucher.

The names of the attorneys detailed in said voucher "A," did not appear upon the books of the Trust.

Voucher 386 is for travelling and incidental expenses for the year ending December 30th.

The voucher, as taken by the Reporter, does not show the year the expenses accrued.

Voucher 5317, signed by J. D. Hatch, is for cash paid for traveling expenses, including a statement of claims for damages, procuring testimony; expenses for general agency for the year ending December, 1871, 27, and for four days attendance at Directors' meetings.

Voucher 1328, Montpelier, November 27th, 1872, is for expenses of J. D. Hatch, bill at Pavilion Hotel, charged to general expense account \$28.60.

Voucher 1900—J. D. Hatch, July 2d, 1873, is for traveling expenses for 1872 as General Agent. The amount of the expenditure does not appear upon the copy as taken by the reporter.

Voucher 734 is, among other things, for a letter press, \$19.00, for J. D. Hatch. This letter press was for the use of Mr. Hatch in the service of the Trust.

Voucher 7796, \$1,115.30, is as follows: To expenses before the completion, in resisting application by the Rutland & Burlington Road, for a parallel line to Rouses Point; also, a bill to equalize freights, for switching in switches, and to protect persons who had paid fares from being put off the cars, &c. This voucher was approved by J. Gregory and charged to general expense account.

On the 28th day of December, 1869, J. D. Hatch settled his account with the Trust, in the manner above indicated, which amounted to \$1,000. And the entry of this sum appears upon the Secret Service book, as follows: "1869, December 28th, J. D. Hatch, settlement with Trust, \$1,500." There also appears upon the same book, under date January 5th, 1870, "J. D. Hatch, per receipt, \$350."

These two sums, with the \$1,000 indicated in Voucher "A," make \$2,850 above referred to. It did not appear for what purposes the \$1,000 and the \$350 were expended.

The origin of the "Secret Service Fund," so-called, was as follows: When the system of "bonding" was first adopted by the Govern-

ment; for the convenience of the customers of the railroad, there was established at Rouses Point, by Mr. Myers, who was connected with the Montreal & Champlain Road, a system for passing shippers' goods through the Customs Department.

The consignor of the goods was required to attend to this business, but Mr. Myers, who had an extensive connection among the shippers, attended to the business for them, thus saving the shippers the necessity of sending some one specially to do the business for them, and for this service Mr. Myers was in the habit of charging a small commission for his trouble.

When St. Albans was constituted a Port of Entry, this system of bonding was transferred to that place, and Mr. Myers, who was agent at Rouses Point, came to St. Albans and inaugurated the system with the clerks of the Trust.

He disclosed to Mr. Merrill, the Superintendent, his plan of operation, and explained how it had been done, and in pursuance of this the clerks of the Trust performed the duties at St. Albans.

This imposed considerable labor upon the clerks.

The Trust had a rule, not to allow any clerk to receive commission from outside parties, and hence decided that the commission so received by the clerks doing the business should not be considered as a perquisite to them. At that time the necessity for a fund that should be used at the discretion of the Managers, arose, and J. Gregory Smith directed Mr. Merrill, the Superintendent, to pass the amount received for bonding freight to the Treasurer, to constitute a "Special Service Fund." At this time, Mr. Putnam and the clerks gave it the name of "Secret Service Fund," and after that it was called the "Secret Service Fund." The amounts that were received from this source and from other sources appear on pages 18 to 25, inclusive, of the appendix of investigating committee report.

At the time of the creation of this fund, the railroad Company was very much embarrassed by numerous thefts committed on the line, from the cars, and were under the necessity of employing a detective force to ferret them out. They were causing a great deal of trouble along the whole line through from Boston and from New York, by the way of Springfield, by reason of which the railroad Company was greatly annoyed by the claims for losses of freight.

Whether the employees of the Railroad Company were engaged in the thefts, there was no means of knowing.

It was necessary to break it up, and to this end, the Managers of

other roads and J. Gregory Smith, consulted as to what course it was best to pursue, and it was decided to employ a detective force.

It was necessary to send abroad for them, to New-York and Chicago.

The detectives were unwilling to come, because they did not wish it known that they were in the service of the company, and were unwilling to have their names appear on the pay roll of the Trust.

By a rule of the Trust, no money can be paid out without a voucher, and thus it became necessary for said Smith to assume these expenses personally, or provide some other way.

About this time, Mr. Hobart, the Master of Transportation, came to said Smith, and enquired what he should do with the fund which was accruing from the entries which were made for bonded goods, by the clerks, for shippers on the line of the road.

As this fund was outside the ordinary business of the road, said Smith directed Mr. Hobart to order it to be paid into the Treasurer's Department, and also directed Mr. Williams, the Treasurer, to set it apart as a special fund, and hold it subject to the order of said Smith.

And it was done in the form indicated on pages 18 to 25 of the appendix above referred to.

There are other funds entered in the Secret Service Fund account from other sources, which sufficiently appear from inspection of the account.

At that time, there were claims being made against the Trust for personal injuries, which were regarded fraudulent by the Managers.

Two or three cases were then on hand where parties were claiming very large damages of the company for personal injuries—one of them \$20,000, another over \$10,000, which the Trust had become satisfied were entirely fraudulent and had refused to settle.

Suits were expected and it was found necessary to employ detectives to follow these cases, and after nearly two years, in one case, it resulted in demonstrating the fraud, and the withdrawal of all claims against the company, while, as the Managers were advised by their counsel, they could not have resisted the claim on the appearance and on the testimony the party would have had, but for the work of the detectives. .

There are some detectives who will, upon a receipt of money for their services, give a voucher for it, while there are others who will never give vouchers, because they will not put themselves in a position where they might afterwards be discovered.

With reference to the last named detectives, the Trust could not have secured their services if they had insisted upon requiring them to give vouchers.

In the case of the \$20,000 claim, there were persons willing to engage and find out the facts of the case for the Trust, but who would not have their names associated with the matter.

The case was found out and saved to the Trust, and the expenses of ferreting out the matter, J. Gregory Smith paid out of the Secret Service Fund.

In the case of the \$10,000 claim, great pains was taken to ascertain the truth about the matter. The parties who investigated the case were so successful in their efforts that the fraud was discovered, and the party himself afterwards confessed it. It was for services such as these that the fund was established; and so far as was necessary the money was used for that purpose. A portion of the Secret Service Fund was paid out to detectives under circumstances above detailed, and those of a like character.

J. Gregory Smith testified, among other things, as follows, to inquiries made by Mr. Davenport, Counsel for Austin Birchard and Rush C. Hawkins:

Question. Will you tell me the name of the party who made this unfounded claim and confessed to you in this room?

Ans. No, sir. I could not do it without implicating others.

Ques. Why not, without implicating others?

Ans. Simply because I could not do it, without the fact being known to whom I had paid the money for such services as I spoke of. I decline to state anything more than I have.

Ques. Who was it brought this \$20,000 claim against the Trust?

Ans. I decline to say.

Ques. Does he reside in this State?

Ans. No, sir.

Ques. In what State does he reside?

Ans. I decline to tell you.

Ques. What was the nature of his claim?

Ans. A claim for injury.

Ques. For personal injury?

Ans. Yes, sir.

Ques. Happening upon one of your passenger trains?

Ans. Well, it was for a personal injury that he had the claim.

Ques. Do you mean an injury to his person?

Ans. Yes, sir, I do.

Ques. Was this \$10,000 claim an injury to the person?

Ans. Yes, sir.

Ques. Was it in connection with these two cases that you expended this \$14,000?

Ans. No, sir, not all of it; I have had other cases.

Ques. Was there any reason why you could not put Jo D. Hatch on the track of these villains?

Ans. He could not have found out anything. He was known to be an agent of ours. I might as well have gone myself.

Ques. Have you in your possession any papers connected with these matters, which you are willing to show to the Masters, or to counsel here, and not have the matter on the reporters' minutes?

Ans. No, sir; I decline to state anything. I have said the amounts expended by me were entirely for the interest of the Trust, and if the Masters think my statement insufficient, they may disallow the amount, and I can refund the money.

Ques. Do you think it is proper for you to keep from the knowledge of the officers of the Court what you have done with the money of this Trust?

Ans. "Yes, sir, under the circumstances I do, and if the Masters are not satisfied with my explanation, I would rather pay the money than violate my honor. Every dollar of that money which I expended, was expended in a legitimate and proper way for the protection of the interests of the Trust, in disposing of the fraudulent claims and practices which were sought to be enforced against the Trust. There was not a dollar used at the Legislature, directly or indirectly, nor with any branch of the government. As I have said, every cent was legitimately used for the protection of the interests of the Trust, and I saved the Trust money by the use I made of the funds."

Whereupon the following motion was filed before the Masters:

"Counsel for Austin Birchard and Rush C. Hawkins move the Masters for an order upon John Gregory Smith, requiring him to answer and disclose to whom he paid and disbursed the various sums from the 'Secret Service Fund,' about which he has already been inquired of, and concerning which he declined to answer.

CHARLES N. DAVENPORT, of Counsel."

St. Albans, Sept. 29, 1875."

It appeared that Judge Poland and Mr. Fifield, counsel for J. Gregory Smith, had had a conference with him in relation to the matter contemplated in the motion, and that he gave them the details as to why this money was paid, and explained to them that these were matters of confidence; that some persons had been employed in cases where parties claimed to have been injured. Others were employed to look after

persons who were concerned in the management of the Trust, and that he was in honor bound to all those persons not to disclose their names. Upon the disclosure and statement of Mr. Smith to his counsel, they both advised him not to disclose it; that they considered that his obligation to those persons ought not be violated.

The ruling of the Masters upon Mr. Davenport's motion was, that in view of the evidence given upon the subject, they declined to make the order.

To which decision, overruling the said motion, counsel for the Bondholders desire to except.

In order to get funds, J. Gregory Smith ordered the collection of the sleeping car money, also the money received for the sale, or a portion of the sales of the chairs of the drawing-room cars, and the money coming from odds and ends, such as the sale of old wood, old lumber, such as was collected by woodmen, to be paid into the secret service fund.

Mr. Williams, the Treasurer, did not enter these funds, so collected on his cash book, but entered them on his secret service book, so that when he settled his cash book, the cash would overrun just so much as there was money entered on the secret service book, which did not appear on his cash book.

This manner of keeping it was continued until Mr. Williams left, and as Mr. Williams was the only person who had had charge of the fund when he left, said Smith directed his private Secretary, Mr. Putnam, to take it temporarily, expecting soon to do away with the fund, and return it to the company.

Said Smith had no knowledge of the book on which the fund was minuted by Mr. Williams and Mr. Putnam, until the hearing before the investigating committee.

Mr. Williams one day, informed Mr. Smith that Mr. Hatch wanted some money for various purposes, and asked Mr. Smith if he should let him have the money from this fund. Mr. Smith directed Mr. Williams to let him have it, and thus the account of Mr. Hatch was made upon the secret service fund book.

The secret service fund was commenced in 1869, by an entry:

"Opened packages Pay Roll account, \$732.38."

In settling up the pay roll there were some small sums which were turned over to Mr. Williams, the Treasurer, by Mr. Merrill, the Superintendent, that were due to men, and had never been called for, which had been kept as a cash memorandum, and had been laying along for years, the men having gone off without calling for their pay.

This money, and all other money designated as the Secret Service Fund, went into the general funds of the Trust, and the book on which the account was kept designated the amount of the fund, so in the general funds of the Trust, and, in this particular, it was kept like all the other funds of the Trust, except that it did not appear upon the cash book, but did appear upon the "Secret Service Fund" book.

The secret service fund book was treated as a regular book in settling the cash account, and showed the balance of the cash which did not appear on the cash book. Had the cash account been settled by the cash book alone, it would have overrun.

On the 20th day of November, 1869, Mr. Bradley Barlow of St. Albans, advised J. Gregory Smith to retain Mr. George A. Ballard, an attorney at Fairfax, for the Vermont Central Railroad. Said Smith then authorized said Barlow to make the retainer. In pursuance of which Mr. Barlow did retain Mr. Ballard, and paid him \$100 for the retainer, and on the same day drew the money from the Trust therefor, and executed his receipt to the trust for the same as a voucher, and the same sum is set down in the account on the "Secret Service Fund" book. Six hundred dollars from the "Secret Service Fund" was paid Mr. B. H. Smalley, an attorney residing at Swanton, for confidential services in the interest of the Trust.

These services were professional consultations, and advice with J. Gregory Smith, the details of which Mr. Smith declined to give, claiming that they were of a confidential character, and of a nature that he could not disclose, without detailing matters that he was, in honor, bound to keep a secret, and that they were a part of the secret service of the Trust in ferreting out frauds sought to be perpetrated upon the Trust.

Mr. Smalley had formerly been a very eminent lawyer but for a few years past had been nearly out of practice.

It was supposed by Mr. Smith that Mr. Smalley had a peculiar knowledge in relation to the matters upon which he was thus consulted.

In November 1869, Charles H. Heath of Montpelier, an attorney, was retained, and paid \$50 by the Trust.

On the 20th day of November, 1871, J. Gregory Smith took \$12,821.41 of the "Secret Service Fund," also on the 23d day of December, 1871, he took the further sum of \$2,000.

The Treasurer of the Missisquoi Railroad Company. Mr. J. W. Newton, or E. A. Smith, acting for the Treasurer, had \$5,400 of the money so taken by J. G. Smith, which was paid to George F. Harris & Co., in part pay for labor on the Missisquoi Railroad, in the construction

of said road as per receipts marked "O," in the appendix of Investigating Committee Report, page 6.

In the absence of Mr. J. W. Newton, Mr. E. A. Smith, executed a receipt to J. Gregory Smith for the \$5,400, placing Mr. Newton's name thereto, as he was accustomed to do in Mr. Newton's absence, and that receipt is marked Exhibit "C," in the appendix, and may be found on the 3d page. Mr. E. A. Smith also passed the money over to Messrs Harris & Co., and took their receipt marked "O."

Mr. J. G. Smith had contracted for \$15,000 of the Missisquoi Railroad bonds, and this \$5,400 was paid over to George F. Harris & Co., in part payment for said bonds, and the same is credited on the account touching said bonds.

X The sum of \$5,400 should be charged to J. Gregory Smith with interest from the 20th day of November, 1871.

There is now \$2,000 of said "Secret Service Fund," in the hands of said J. G. Smith, which should be charged to him with interest from November 20th, 1871.

The balance of said \$14,821.41, has been expended by J. Gregory Smith for the benefit of the Trust in the Secret Service, the circumstances of which have been fully detailed above.

The note given by S. Williams for \$3,975.00, May 1st, 1872, for a portion of the "Secret Service Fund," and mentioned in the Secret Service account, under date of April 30, 1872, has been turned over to the Treasurer of the Trust, and is the property of the Trust.

A copy of said note may be found on page 4 of said appendix, marked Exhibit "I."

At the time the Ogdensburgh Railroad was leased to the Trust, or to the Vermont and Canada Railroad Company, elsewhere detailed, W. C. Brown, of Ogdensburgh, was the attorney of said Ogdensburgh Railroad.

The negotiations for this lease commenced in the Fall before it was executed between Mr. Pratt, George M. Barnard and J. Gregory Smith.

Mr. Pratt and Mr. Barnard came to Mr. Smith and wanted to know if he would take the lease, and after a consultation upon the matter, the question of the lease was submitted to their counsel, W. C. Brown.

Mr. Brown reported to them his written opinion: that in his judgment the Ogdensburgh Railroad had no power to make a lease. Mr. Pratt called Mr. Smith's attention to it, and showed Mr. Smith, Judge Brown's written opinion.

Mr. Smith regarded Judge Brown's objections as tenable, and sug-

gested to Mr. Pratt that they seemed to him to be so, but suggested that they would submit the question to Judge Isaac F. Redfield, of Boston, and get his written opinion.

They did so, and Judge Redfield's opinion coincided with Judge Brown's—that a strict lease could not be taken.

Judge Redfield advised that the Trust take a contract, which should in effect be a lease, and avoid the legal technicalities, and suggested a form of contract. Judge Redfield gave his opinion in writing. This opinion was submitted to the Ogdensburgh Road, and after they had submitted it to their counsel, Mr. Pratt had an interview with Mr. Smith and General Stark, who were the general managers of the through line, appointed by a board of directors composed of representatives of the various roads constituting the through line, and informed them that the Directors of the Ogdensburgh Road were all agreed that the lease should be made as a contract, and that the line should have the road, suggesting that they would soon get together and have it adjusted, and during the conversation suggested several persons if the contract was made, that should be retained by the line. And among those named was H. C. Brown.

They told Mr. Pratt that they did not want to retain all those named on account of the expense; Mr. Smith saying that he would be very happy to retain Judge Brown, if his associates agreed to it, for the reason that he was a gentleman thoroughly familiar with the affairs of the Ogdensburgh Road from the time the Charter was obtained.

Nothing more was said in relation to this matter till there was a meeting in St. Albans.

Judge Brown and Mr. Pratt met Mr. Smith at his office, and the opinions of Judge Brown and Judge Redfield were discussed.

Judge Brown read Judge Redfield's opinion, containing his method of getting over the legal difficulty, and remarked that he saw no reason why it was not a proper one, and why it could not be successfully carried out and a legal instrument made.

Thereupon, Mr. Pratt and Judge Brown left the office and had got into the hall, when Judge Brown returned to the office and said that Mr. Pratt had told him that he had had some conversation with him (Smith) about retaining him, and asked Mr. Smith if he desired to do so.

Mr. Smith informed him that if the lease was consummated, as he had no doubt it would be, as both parties were agreed, he would like very much to have him continue his relations to the management.

Judge Brown then asked Mr. Smith what his views were as to the retaining fee.

At this Mr. Smith suggested that it would be more becoming for him to indicate what he wanted.

Judge Brown then said to Mr. Smith, "My request may strike you as steep at first, but you will remember that I have rendered some service to your company, and there are reasons why I desire to be retained at once, and let it be a permanent one, and then my services are at your call at any time."

Mr. Smith said, "Mr. Brown, what are your views?" To which Judge Brown replied, "I think I ought to have \$25,000." Mr. Smith said to him that that was far beyond any idea he had himself, and that he could not decide then, saying that the lower roads were interested with them in taking the lease; that he would submit the question to them and be governed by their direction in the matter, and that he thought it was too high.

In a day or two after this interview, Mr. Smith went to Boston and saw Mr. B. P. Cheney, Mr. Stark and Mr. Stearns, and submitted Judge Brown's proposition to them.

Mr. Cheney thought it was too high, but was willing to give him a retainer of \$10,000.

General Stark said Judge Brown was a man who had influence and would not deceive them, and remarked that they were going up there into a strange country and into another State, and that Judge Brown was an eminent lawyer, and familiar with the whole history of the road, and that he could render them good service, and that they could not well refuse him, and advised giving his price.

Mr. Cheney and Mr. Stearns were reluctant to give it.

Up to this time, Mr. Smith had expressed no opinion to them, but on being enquired of, said he thought it was altogether too high, but considering that Judge Brown was an important man for them to have, it was arranged between them to give the price, it being understood by all of them that Judge Brown was to receive that as a permanent retainer for his services and to charge nothing more.

After the contract was drawn and executed, Mr. Pratt came to Mr. Smith and General Stark, and said: "How about Judge Brown?" Mr. Stark replied to him: "That matter is arranged between us, and we will satisfy Judge Brown." Judge Brown was then near by talking. Mr. Smith said to him: "We regard it as a very large retaining fee, yet we have concluded to give it." And it was settled that when Judge Brown returned from Boston, he was to stop over at St. Albans, and get his money. When he got to St. Albans the Trust not having the ready

money that they could then well spare, it was arranged that Judge Brown should take two notes, dated February 26, 1870, one on sixty, and one on ninety days for \$12,500 each. The notes were so taken. When they fell due they were paid by the Trust. The amount so paid by the Trust was charged to the line, and the line have paid to the Trust that amount.

The proportion of the other roads being 24 $\frac{1}{2}$ per cent. of the amount paid by the Trust. Judge Brown's name got on the Trust books in some way which did not appear, and without the knowledge or approbation of Mr. Smith, and he was paid in addition to the above named retainer, for a few months, till his death at the rate of \$2,500 per year. Mr. J. Gregory Smith knew nothing of this till the matter came up for investigation before the investigating committee, and some years after Judge Brown deceased.

Judge Brown deceased within a few months after this retainer as stated.

The payment to Judge Brown for retainer, as above detailed, was made in good faith, and by the concurrence of the managers of the whole line, believing it to be for the interest of the line to do so.

The payments to Judge Brown are allowed under objection of counsel.

It is necessary to keep up the organization of the Vermont Central Railroad Company as the base of the Trust, otherwise the Trust would have nothing to stand upon.

It is also necessary to keep up the organization of the Vermont & Canada Railroad Company, otherwise they would have no power to enforce their claims against the Vermont Central Railroad Company for breaches of the terms of the lease. The record of the Court of Chancery show inferentially, at least, that these organizations are recognized by the Court.

Objections were made to various payments which were made from the Trust moneys to officers of the Vermont Central Railroad Company for their services.

Payments were made to the officials of the Vermont Central Railroad Company as follows:

September 12, 1864, W. C. Smith, salary as Treasurer,	}	\$645
January 1, 1862 to January 1, 1864, with interest added,		
E. W. Peck, as Clerk for the years February 28, 1863,	}	\$310.90
and February 6, 1864,		
January 1, 1862, W. C. Smith, two year's services as Treasurer,	}	\$600.00

January 1, 1862, W. C. Smith, for a year's salary and for services, and expenses as Director, together with interest total, } \$850.45

January 1865, W. C. Smith, salary as Treasurer, to January 1865, } \$300.00

E. W. Peck's salary as Clerk two years, 1859 to 1861, \$200 and expenses to Boston, &c., \$27.35, } \$227.35

Vouchers 1022, 1930 and 3992, are for E. W. Peck's services, &c., as Clerk, but the copies of the Vouchers as given us by the reporter do not show the amounts. It was understood that the reporter was to take full minutes of Vouchers objected to, and hence the particular attention of the Masters was not called to the Vouchers, as the testimony was being taken.

Mr. Davenport as Counsel, objected to all such sums represented in Vouchers as salary to Mr. Peck for services as Clerk Vermont Central Railroad Company.

The amounts named in the Vouchers do not appear to have been given to the reporter. The Vouchers are referred to for greater particularity, and made a part of this report.

Voucher 5630 is for Levi Underwood going to Boston and attending a meeting of the Directors, } \$21.50

Voucher 3423, signed by Levi Underwood, is for services as Director of the Road, with interest added, } \$458.74

Voucher 385, signed by E. W. Peck, is for salary as Clerk, } \$137.91

Voucher 3084, signed by E. W. Peck, is for services connected with the Vermont Central Railroad, } \$114.69

Part of Voucher 2665, January 1, 1868, is for expenses of Levi Underwood as Director of the Vermont Central, } \$5.00

Voucher 1472 is for services and expenses of J. D. Hatch as Director of the Vermont Central Railroad, } \$69.91

Voucher 8974, dated April 13, 1868, signed by E. W. Peck, is for services of Mr. Clark, on the Vt. Central Railroad, } \$125.21

Voucher 8969, is for services of Mr. Clark on the Vermont Central Railroad, and is signed by E. W. Peck, } \$269.50

Voucher 3910, signed W. C. Smith, dated February 1867, is for salary as Treasurer of the Vt. C. R. R. to June 1866, \$300; to June 1867, \$300; interest \$18. Total approved by Mr. Taylor, } \$618.00

Voucher 1581, signed W. C. Smith, is for five days in Boston, signing Coupons to Bonds, } \$50.00

Voucher 5878, signed J. D. Hatch, is for attendance and expenses as Director of the Vermont Central Railroad, } \$44.75

Voucher 6753, George G. Smith, March 23, 1870, is for one year's salary as Clerk of Vermont Central Railroad, } \$300.00

Voucher 1069, signed George G. Smith, is for salary as } \$300.00
 clerk of Vermont Central Railroad one year,

All said vouchers may be referred to if need be. The items are allowed as charged under objection.

No exhibit has been furnished us of the incidental expenses of the Vermont & Canada Railroad Company, if such an exhibit exists, we have overlooked it. If the items appear upon the papers filed, counsel may readily turn to them and present them to the Court.

Among the very great mass of documents and vouchers put in the case, we have not been able to collate the items touching these incidental expenses, and counsel have given us no reference where they may be found.

Mr. G. M. Dexter presented a bill to the management dated May 1, 1868, for payment. That bill is embraced in voucher 1271, Exhibit No. 38, and is as follows:

Trustees of 1st Mortgage Bonds Vermont Central Railroad,	
To G. M. Dexter,	Dr.
To services as Trustee of 2d Mortgage Bonds to date,	\$3000 00
Services as President of Vt. Central R. R. to date,	2000 00
	<hr/>
	\$5000 00

The Managers refused to allow the bill, and it was passed to the Auditing Committee.

Mr. Pinkerton, Mr. Drury and Mr. Cheney agreed to leave it to the parties in Boston to determine how much should be paid on it, and recommended that \$4000 be paid on the bill, and the Auditing Committee endorsed it as follows:

"The written bill having been reduced by Mr. Dexter to the sum of \$4000, the sum being in full of all claims against the Vermont Central and Vermont & Canada Railroads is approved by the Committee."

(Signed,)

J. M. PINKERTON,
 OTIS DRURY.

Said bill was paid October 16th, 1868, as allowed by the committee, and the payment is allowed by the Masters under objection.

Voucher 1538, signed by Joseph Clark, is for endorsing paper of the Vermont & Canada Company, and raising money on personal notes to the amount of \$135,468.50.

The total amount with interest included, is \$907.63. It states on Voucher, "Received of G. Merrill or in full of above account January 1st, 1862."

This bill was paid by Mr. Merrill, by the direction of the Trustees, at the time it purports to have been paid.

There is another voucher of the same character, signed by J. Gregory Smith for J. Smith's account, which is for the same amount and bears the same date.

The amounts embraced in these two vouchers are allowed by the Masters under objection.

Vouchers 4671-2-3, dated January 4th, 1862, are signed by Joseph Clark, J. Gregory Smith, and Lawrence Brainerd, respectively.

Voucher 4671 is for \$1,950, amount of compensation for signing bonds for the Vermont & Canada Railroad in 1855, at the time they took possession of the roads under the order of the Chancellor, as per statement of J. Gregory Smith, Trustee of J. Smith's estate, filed with the voucher.

The other two vouchers are like that, except that they are signed by Clark and Brainerd, respectively.

At the time the Vermont & Canada Company were appointed Receivers of the Vermont Central and Vermont & Canada Railroads, Judge Poland, then Chancellor, ordered the Vermont & Canada Company to give bonds to the amount of \$100,000 with securities.

The Vermont & Canada Company signed the bond, and Mr. John Smith, Joseph Clark and Lawrence Brainerd signed said bond as surety.

The payments embraced in the vouchers are allowed by the Masters under objection.

Voucher 2430 is as follows :

" *Washington, February 8th, 1869.* The Trustees and Managers of Vermont Central and Vermont & Canada Railroads, to Mrs. M. C. Wheeler, Executrix of the last will, &c., of the Rev. John Wheeler, deceased, *Dr.* For the signing and risk upon the Injunction Bond, taken in 1855, by Chancellor Poland, in the case of the Vermont & Canada Railroad *vs.* the Vermont Central Railroad and others, in Chancery, for Franklin County. Compromised in the sum of \$1250.

Received payment by draft.

GEORGE F. EDMUNDS,

Attorney for Executrix."

Which amount was paid by the Trust and charged to the Vermont & Canada Railroad Company, and is allowed by the Masters under objection.

Voucher 1555, is for carpeting purchased of Childs, Crosby and Lane, for Treasurer's office, in Boston. \$614.11; January, 1872.

Voucher 836, is for a map rack, rollers, &c., \$80, for the office at St. Albans; also for an item for a fancy table, \$75.

Voucher 862, is for one sofa, one rotary, \$309; four arm-chairs, \$33 each; loose check covers, \$27, for H. B. Wilbur's office at Boston.

In May, 1865, a Director's car was built at the shops in St. Albans, at a cost of \$6,500.00, being \$600 to \$800 more than the cost of an ordinary passenger car.

This car was used by the Directors on business of the Trust, and was constructed with sleeping arrangements.

It was sometimes used when the Directors wanted to make observations along the road from the car; it was also used for excursions.

It remained in this form for a while, and was then altered into an ordinary passenger car. Some other roads have a director's car of a similar character.

The furniture for this car cost \$870.

Voucher 7090, is for desks, letter-press, stand, &c., for the depot at St. Albans; \$2,750.

It was claimed that in the construction of buildings at St. Albans, and the furnishing the same and the construction of buildings elsewhere, the Trustees and Managers had been extravagant and that the expenditures ought not to have been made to the extent they were.

The erections are no more extensive nor better than is needed for the business of the Trust, and the furniture used about them no more than fairly comports with such business.

From St. Albans to White River Junction is 120 miles, and from St. Albans to Bellows Falls *via* Rutland, is 152 miles.

The Boston business has generally been taken over the Vermont Central Line from points above Essex Junction.

It costs more to send freight by the way of Rutland on account of the heavy grade, and in the transportation of cattle, it becomes necessary to feed them on the way, as required by Act of Congress.

On the Rutland Road there is no feeding place, while on the Vermont Central there is one at Roxbury.

The route over which freight is shipped is regulated by the choice of the shipper; and the rule adopted by the Trust, is to send freight according to the directions of the shippers.

At the time the Rutland lease was made, there was a business done in connection with the steamer "Oakes Ames," which came from the Montreal and Plattsburgh Road.

After the lease, a good deal of this business was taken by the way of St. Albans. The Trust ran the boat only about two years after the Rutland lease was taken.

From Essex Junction to Bellows Falls *via* White River Junction is 136 miles. By way of Rutland 128 miles.

Mr. Lansing Millis sold \$500,000 of the First Equipment Loan Bonds in 1865, or 1866, for which service the Trust paid him \$2500.

Mr. Millis was, during the sale of these bonds, in the employ of the Trust.

The work in making sale of the bonds was done in addition to the ordinary work for which he was employed, and very often at unseasonable hours; and after the sale was completed the Trust paid him the amount stated.

The item is allowed as charged.

Voucher 914 is as follows :

Boston, Nov. 5th, 1872.

Received of H. B. Wilbur, Treasurer, \$1,145.94, for one-half loss on joint account with Spencer, Vila & Co., in selling Vermont & Canada stock, and sustaining the market to do so.

"B. P. CHENEY."

Certain parties were trying to break down the market value of the securities named in the voucher, and Mr. Vila informed Mr. B. P. Cheney that he had been obliged to buy and sustain the market.

Mr. Cheney thereupon called upon Mr. Stevens of the Globe Bank in Boston, and another gentleman, who said to Mr. Cheney that if he allowed this stock to be broken down he would not be able to sell it; that he must sustain the market if he wanted to get rid of it. Thereupon Mr. Cheney agreed to join Mr. Vila in the purchasing of the stock in order to sustain the market until he could see the board of management, and confer with them about the matter.

They bought the stock, and when the account was made up it showed a loss of \$1,145.94 to Mr. Cheney. In this transaction Mr. Cheney also took the advice of Mr. Swift, who was an experienced financier, and a gentleman friendly to the interests of the Trust. Mr. Swift told him that he must sustain the market. The result was the paper soon began to be taken at its par value.

Mr. Cheney stated the matter fully to the board of management, and they told him he should not be allowed to lose in the matter.

And when the account was made up Mr. Cheney paid the money on the loss, and received pay therefor from Mr. Wilbur, as indicated in the above voucher. Mr. Vila received nothing for his half of the loss. The expenditure thus made was indispensable to keep up the value of the stock, and the same is allowed.

Money was borrowed by the Trust to some extent, but to what extent did not appear, before 1865. The statement of the interest account from December 2, 1859, to October 2, 1863, appears in paper or voucher marked 810, and shows a balance in favor of the Trust of \$6,522.69.

As early as June 29, 1855, there was a discussion between the Vermont & Canada and Vermont Central R. R. in relation to the cost of construction of the Vermont & Canada road. On June 29, 1855, a meeting of Directors was holden at White River Junction, and a committee was appointed by the Directors, consisting of C. O. Whitmore and J. P. Putnam, to meet a similar committee appointed by the Vermont Central Railroad Company in reference to the cost of construction of the Vermont & Canada Railroad. The records of that meeting may be found on pages 142 to 152 inclusive of the first volume of the Directors' records of the Vermont & Canada Railroad Company.

On January 27, 1857, a Directors' meeting of the Vermont & Canada Company was held at Boston, at which the following vote was passed, and the same appears on page 203 of the same volume :

"Voted that a committee of three from this Board be appointed by the President with full powers to settle and adjust all outstanding accounts between this corporation and the Vermont Central Railroad Company, growing out of the construction of the Vermont & Canada road, and that they be authorized to make and execute any and all papers which they may consider necessary to carry into full effect such settlement, and bind the corporation thereby."

In pursuance thereof, Messrs. Dexter, Whitmore and Putnam were appointed. .

On the 8th day of April, 1857, there was a meeting of the Directors held at the Revere House, Boston, at which the committee made their report. and said report may be found on pages 210 to 225 inclusive of the Directors' records.

In that report the committee state the figures of the claims both on the part of the Vermont Central Railroad Company and the Vermont & Canada Railroad Company, and the statement of the committee was adopted as follows :

"Amount due from the Vermont & Canada to the Vermont Central Railroad Company,	\$72,979 50
"Amount due from the Vt. C. R. R. to Vt. & Canada,	40,306 35
	<hr/>
	\$32,673 15

"C. O. WHITMORE, "G. M. DEXTER, "J. P. PUTNAM,	} Committee."
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In the Directors' report of the 28th of December, of the Vermont & Canada Railroad Company at the annual meeting of the Stockholders held at Montpelier, 1857, the Directors report to the Stockholders that the balance of indebtedness due from the Vermont & Canada Company to the Vermont Central Company, from the construction account has been determined to be \$32,673.15.

At the meeting of Stockholders of the Vermont & Canada Company, at Northfield, June 3, 1859, it was voted as follows :

"The balance found due from the Vermont & Canada to the Vermont Central for money expended by the Vermont Central, in construction of the Vermont and Canada road amounting to \$32,673.15, as of July 1, 1858, to be paid in stock of the Vermont & Canada Railroad Company to be issued as of July 1, 1853, by vote of the Stockholders within forty days from this date, and to be taken at par in payment of such balances, in accordance with the agreement between the Vermont & Canada and Vermont Central Railroad Companies, made at the time of said expenditures."

On the 3d day of February, 1860, it was voted that the Treasurer be instructed to issue to such persons as the Vermont Central Railroad may designate, 327 shares of the stock of the Vermont & Canada Company in pursuance of the agreement between said Vermont & Canada Company, and the Trustees First Mortgage Bonds, of July 7, 1859, and the vote of the Stockholders of the Vermont & Canada Company the same day.

On the 3d day of July, 1860, there was issued to J. Gregory Smith, as appears upon the Vermont & Canada records 414th page, 100 shares, denominated new shares.

On the same date there was issued to W. C. Smith, 50 shares, to Joseph Clark, 20 shares, to L. B. Peck, President Vermont & Canada Company, 12 shares, to Levi Underwood, 75 shares, to G. M. Dexter, 20 shares, to C. O. Whitmore, 50 shares, making the 327 shares.

At the Stockholders' meeting at Northfield, 1st November, 1860, the records of the Vermont & Canada Company show that the report of the Directors which was signed by L. B. Peck, President, Edward Blake, John Porter, W. C. Smith, Jed. P. Clark, Directors, contains the following statement in relation to these 327 shares :

"The amount of stock issued on which rent was paid for some years by the Central Company, and by the Trustees of the Bondholders is \$1,348,500. To this sum should be added the amount of stock issued in settlement of the balance found due the Central Company as before stated being \$32,700."

At the Stockholders' meeting at Northfield, November 6, 1862, the report of the Directors of the Vermont & Canada Company, was submitted, and signed by Lucius B. Peck, President, Edward Blake, John Porter, W. C. Smith and Jed. P. Clark, Directors.

In that report the following statement was made in relation to the 327 shares:

"In answer to the bill filed by this Company in 1853, to enforce their lien for payment of rent, the defendants, in their answer, insisted that the Central Company had a large claim, some \$250,000, against the Canada Company for money expended in constructing the road of the latter company, and when that was applied it would more than extinguish the rent then due. This claim was finally adjusted by the Directors of the two companies in 1857, through committees of the two Boards appointed for that purpose, and the sum found due to the Central was \$32,673.15, which was to be paid in cash, or the stock of this company, as the Central might elect. That company having decided to take stock, the Stockholders of the Canada Company, at a meeting in 1859, directed the Board of Directors to issue stock for that sum, which was accordingly done.

"At one of the hearings before the Masters in 1858, it was insisted on the part of this company, that the sum so allowed the Central, should be charged to the cost of construction.

"The Masters reported the facts as found by them, and the Court disallowed the claim, as it did not sufficiently appear, in their judgment, that the charge arose in constructing the road.

"The result is that this amount, this company must lose, and it can be provided for on the issue of stock for the extension into Burlington."

The 3d article of the decree of the Court of Chancery, January 19, 1864, is as follows:

"That (by way of supplemental decree to orders fixing the rights and priorities of the various parties and interests in said cause, and in furtherance thereof,) the said Vermont & Canada Railroad Company, may forthwith, or as soon as may be, increase its capital stock by the further issue of shares therein of the same amount of the existing shares, to such an amount, so as that the whole present capital stock of said company shall be two millions of dollars, which said two millions of dollars shall be the basis for the computation of the rent provided for in the original lease set forth in the proceedings in said original cause, except as hereinafter further provided."

The stock dividend of the Vermont & Canada Railroad Company of February 11, 1864, was made upon a basis including 13,485 shares authorized by the decree of 1861, and 327 shares above named, making in all 13,812 shares.

Dividends have been paid on these 327 shares up to June, 1872.

These 327 shares of extra stock did actually represent the cost of construction of the Vermont & Canada road to that extent, and was so understood by the Vermont & Canada Company, and the Vermont Central Company.

The committee above named, appointed to settle the construction account between the two companies, went carefully over each item in dispute in the construction account, and the result was the balance of \$32,673.15 in favor of the Vermont Central Company, as strictly and legitimately due from the Vermont & Canada Company, as balance of construction account against the Vermont & Canada road, for which it was agreed stock of the Vermont & Canada Company should be issued.

These 327 shares were included in the \$2,000,000 of stock authorized by the decree of 1864, limiting the stock to that amount.

There is an item on Exhibit 93, "Vermont & Canada Loan account \$107,248.00," under date of February, 1867.

The items aggregating this sum appear on Exhibit No. 105.

STOCK SUBSCRIPTIONS, &c.

In 1865, the Trust subscribed for \$3,500 of the stock of the St. Albans Hotel Company, and about that time they made a subscription for stock in the Mount Mansfield Hotel at Stowe of \$2,000. They also contributed \$750 to the hotel at Waterbury.

They have since taken stock in the Welden Hotel Company at St. Albans, to the amount of \$20,000. These subscriptions were all paid by the Trust.

The stock thus subscribed for has never paid any dividend, and is regarded as worthless. The St. Albans Hotel Company failed, and its stock was cancelled or extinguished, and that company became merged in the Welden Hotel Company.

It has always been customary for railroads to contribute to hotels on the line of their roads at prominent points; such hotels as are required to accommodate the travelling public passing over their roads.

Many roads in New England and elsewhere do this, with the object of increasing the travel upon their roads, and especially is this so in relation to places calculated for summer resorts.

With regard to the hotel at St. Albans, at the time of the excursion of Bondholders to examine the Stanstead, Shefford and Chambly property in 1865, elsewhere mentioned, the subject of subscribing for stock in the St. Albans Hotel Company was discussed, and all desired that the Trust should take stock to aid the hotel enterprise; and quite a number of said Bondholders subscribed individually, with a view to help the railroad.

In view of these suggestions, and to benefit the Trust roads, the officials of the Trust subscribed for \$8,500 of the Stock in the St. Albans Hotel Company, and afterwards, with a like purpose, subscribed for \$20,000 of Stock in the Welden Hotel Company.

The Committee of Bondholders approved of said subscriptions for stock, on the ground that they believed it to be the wish of the Bondholders that said subscription be made by the Trust.

St. Albans and Stowe were, and still are, favorite resorts for Summer travel; and the same may be said of Waterbury, but to a less extent.

The subscription of \$20,000 was made by Mr. Taylor, an official of the Trust, after consulting with his friends in Philadelphia and Boston.

These hotels are of greater benefit to the Trust than the amount of the subscriptions, and we regard the investments as judiciously made, and the same are allowed as charged in the account.

These several payments were objected to by counsel for the Bondholders.

The Trust subscribed for \$5,000 of the Stock of the Mt. Washington Railroad. This railroad extends from the base to the summit of Mt. Washington; and September 10th, 1868, the Trust paid \$3,102.50 in payment for said stock.

This stock was taken to aid the Mount Washington Railroad, and thereby increase the travel over the Trust roads.

Other roads made subscriptions for stock in the Mount Washington Railroad, for the purpose of increasing the travel over their lines of roads. The Trust line of roads is about 68 miles from the Mount Washington Railroad.

This stock has not paid any dividend yet, though it is regarded good by the Managers. The profits thus far have gone to enlarging and perfecting the road.

The purchase of this stock was regarded as beneficial to the Trust by its officials, mainly on the ground that the construction and operation of Mount Washington Railroad increases the travel upon the Trust

roads, so that a profit arises to the Trust roads equal to, or greater than, the amount of stock subscribed for by the Trust.

The advantages derived by the Trust roads from this investment consists in the traffic over the Trust roads from Montreal and other places, for the White Mountains.

We find the investment a proper one for the Trust to make, and allow the same in the accounts as charged, under objections made by counsel for the Bondholders.

Governor Washburn, who had charge of the Woodstock Railroad, applied to the Trust for some help to build said road, and the Trust let said road have about \$10,000, and took the endorsed note of the Woodstock Railroad Company. Said company paid this note when it became due.

After that, the Woodstock Railroad Company made another application for a further loan of \$6000, and agreed to give paper endorsed by private individuals.

The Woodstock Railroad Company could not collect in their assessments fast enough to pay their present liabilities, and requested the Trust to send the money to them at once, as they wanted to allay a strike on the road by paying their men.

The Trust sent them \$6000, and a note by express. When the note was returned to the Trust, it was only signed by the Woodstock Railroad Company, and not endorsed privately, as was promised, and as the former one had been.

J. Gregory Smith instructed the Treasurer of the Trust to return it at once, to be properly endorsed by Mr. Billings. In the interim the contractors attached the property of the Woodstock Railroad Company, and the Trust had the note of said Company, but without the endorsement of Mr. Billings, who declined to endorse it after said Railroad Company failed.

The Woodstock Railroad Company do not deny their liability, and are willing to have the matter adjusted, but they have not yet been in a position to pay the amount or any interest thereon.

This loan was made to assist the Woodstock Railroad, and prevent its union with the Northern N. H. Railroad.

It was claimed, in relation to this item, that it was an improper use of the Trust moneys, for which the Receivers should account, and that this item should not be allowed.

This item is allowed as charged in the account.

In 1864, a charter was obtained from the Legislature of Vermont, to build a railroad from Windsor to Bellows Falls, called the Eastern Vermont Railroad.

The circumstances of procuring this charter, its objects and purposes, sufficiently appear elsewhere, under the head of the Sullivan Railroad. The expense of obtaining this charter, and the preliminary surveys of this road were paid by the Receivers of the Trust funds, and are as follows :

Paid to J. D. Hatch, November 29th, 1864, for expenses in procuring charter, advertising, copies of charter, incidental expenses, &c.,	\$397 65
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Paid to J. D. Hatch, expenses at Montpelier, 1863, for procuring charter of Eastern Vermont Road, including amount paid for advertising, &c.,	\$237 50
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Paid to J. D. Hatch, March 28th, 1866, in the matter of the Eastern Vermont Railroad,	\$44 07
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Paid to L. P. McIndoe, for advertising in connection with the Eastern Vermont Railroad,	\$3 50
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Paid for advertising for Eastern Vermont Railroad,	\$7 00
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Paid for surveys—transferred to Suspense Account,	\$727 00
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Paid legal expenses of A. Tracy, October 13th, 1865, for procuring charter, &c., and expenses,	\$550 00
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The allowance of these items was severally objected to. The Masters regarding them as having been made in good faith, to procure an outlet for the business over the Trust roads at reasonable rates, and for the purpose of facilitating the business of the Trust, allow the items as charged.

The Trust paid Isaac F. Redfield \$500 for services in examining the case of West River, Vermont & W. N. H. Railroad charter, and preparing written opinion upon the points raised, and retainer, &c. The amount so paid was charged by the Trust to the W. N. H. Railroad, September, 1873.

The Trust paid Minot and Mugridge's legal expenses in procuring charter for Western N. H. Railroad, December 24th, 1867.

Voucher 8088, under date of December 24th, 1867, may be referred to for the amount so paid. They also paid for the survey on that road, \$1150. And paid J. D. Hatch expenses in procuring the charter of that road, \$75.50.

The Trust were interested in the building of the Western N. H. Railroad, extending from Bellows Falls to South Vernon on the N. H.

side, in this wise: The Rutland Road had obtained possession of the Vermont Valley Road, and used it for the purpose of diverting freight coming from points below Bellows Falls to Burlington, and points north of Burlington. The Rutland Road would unload freight from the cars of the Trust, and take it over the Rutland Road, when it was directed over the Vermont Central.

Freight could not be directed so strongly as to insure its being sent over the Trust Roads.

Parties complained to the Superintendent that their freight did not go over the Vermont Central. The Superintendent of the Trust gave instructions to parties in New York and other places, how to mark and deliver their freight, and it was way-billed in accordance with such instructions, in order to take it over the Vermont Central, but notwithstanding this it would be diverted to the Rutland Road.

The Rutland Road would also leave the passenger trains of the Trust at Bellows Falls, when the Trust trains were late, and in order to prevent these practices, the Western N. H. Road was projected, the charter taken, and the road surveyed. And the items above show the expenses of the same paid by the Trust. The Connecticut River Road paid half the expenses arising in this matter. All of which payments were severally objected to, but they are allowed by the Masters as charged.

The trust paid B. Poole, an attorney, \$250, and the voucher for the same is as follows:

"January, 1870, received of the Vermont Central and Vermont & Canada Railroads, by the hand of B. P. Cheney, Esq., \$250 for services of self and others to secure reduction of taxes upon Railroads.

B. POOLE."

Two lawyers in Boston claimed that the income tax paid upon gross receipts from railroads was wrong, and pointed out very clearly where the law was wrong. Certain railroads subscribed to enable these lawyers to investigate the matter, and in relation to this, Mr. Poole, one of said lawyers, had several interviews with Mr. B. P. Cheney, an official of the Trust roads.

Mr. Cheney referred him to J. Gregory Smith, and in pursuance of this, said Poole had an interview with said Smith in relation to the matter, and then went to Washington to see what could be done. And said payment was for said services.

And the same is allowed in the Receivers' account as charged, under objection by counsel.

A like amount was paid to the other attorney, K. S. S., for himself

and B. Poole, July 27, 1870, under like circumstances, and the same is allowed as charged under objection.

The Trust paid John C. Pratt \$255, and the voucher for the same as follows :

"Received of the Managers of the O. & L. C. R. R. \$255, being one-half the expenses of myself and Wm. C. Brown at Albany, in reference to Legislative proceedings.

April 8, 1873.

JOHN C. PRATT."

This bill was for services before the Legislature at Albany, N. Y., which the Trust obligated themselves to pay.

The Trust also paid to H. L. Lamb \$100, and the voucher is as follows :

"St. ALBANS, June 15, 1870.

Vermont Central and Vermont & Canada Railroads,

To Henry L. Lamb

Dr.

To services in preparing brief, &c., concerning the contract with the O. & L. C. R. R.

\$100

Rec'd payment,

HENRY L. LAMB."

We allow the last two items as charged, under objection by counsel.

The Receivers paid out of the Trust fund the following items :

Fair at White River Junction,	\$250 00
Connecticut Valley Fair,	500 00
Turkeys for employees, Nov. 24th, 1863,	417 00
To improve camp-meeting ground at Northfield,	180 00
Contributions towards fitting up Fair Grounds for Vermont	} 500 00
State Fair at White River Junction, Nov. 29, 1869,	
Expenses of excursion party, June, 1867, to White Mountains,	106 85
Contribution for library,	1,000 00
Furniture for library	277 31
Subscription for State Fair held at Burlington, 1867,	200 00
Subscription for State Fair held at Burlington, 1868,	500 00
Subscription to Firemen's Muster, June 18, 1870,	100 00
Subscription to Fair Grounds and State Fair held at Burlington,	} 200 00
Sept., 1869	
Subscription to State Fair held at Burlington, 1870,	300 00
Contribution to camp ground at Northfield,	320 90
Joseph H. Brainerd, extra allowance for labor and fees in the	} 303 47
suits of the Vt. & Canada against the Vt. Central Railroad	
Subscription to St. Albans Observatory,	200 00
Dinners and lunches at Welden House for Portland and Ogdens-	} 90 00
burg Excursion,	

The contributions to Agricultural Fairs, and Camp-meeting grounds, Firemen's Muster and Observatory at St. Albans, stand very much upon

the same ground, and were all made in order to promote travel upon the Trust roads. It has always been customary for railroads to make reasonable contributions of this character, in order to increase the travel upon their roads. We regard the investments so made by the Trustees and Managers, as judicious and clearly in the interests of the Trust roads, and allow the same as charged, under objections by counsel.

The item; "Turkeys for employees, Nov. 24, 1863," was furnished as a Thanksgiving present to the employees of the Trust roads, by the Trustees and Managers. At this time the necessities of life were very high, and wages comparatively low.

The employees complained very much in relation to their necessities. We think that a present of this kind, at the time it was made, can only be regarded as made in the interest of the Trust, and that good management of such property, under the circumstances, would warrant such an investment. The item is allowed as charged, under objection.

The items for contribution to Library and furniture for the Library-room stand upon the same footing. The library is called the "Vermont Central Library," and is one in which the employees of the road own stock by paying an annual contribution. The Railroad provides the room in which the library is kept, and furnishes it. Beyond this they have nothing to do with the expenses. This library has been in use upon the road for twenty years. The employees own shares in it, which it gives them the right to borrow books. The donation of \$1,000 was made by the Trustees and Managers to perfect the library. We regard these investments as made in the best interests of the Trust, and allow the items as charged, under objection by counsel.

The amount of \$303.47 was paid Joseph H. Brainerd as extra allowance for labor and fees in matter of decrees and suits, Vermont and Canada Company against Vermont Central Railroad Company. The item is allowed as charged, under objection.

The item for dinners, &c., at the Welden House, was for the expenses of an excursion party connected with the Portland and Ogdensburg Railroad, on their way from Portland to Ogdensburg, at the time they contemplated building the Portland and Ogdensburg road to Swanton. Their business was to look over the route. The Trust were interested in the location of the Portland and Ogdensburg Road. The item is allowed under objection.

The expenses of excursion party to White Mountains, \$106.55, appears regularly upon the Trust books and has been audited and allowed by the Auditing Committee. The voucher embracing this item is numbered 6738.

Mr. Davenport, counsel for the Bondholders, presented the voucher Mr. Merrill, a witness upon the stand, and asked him what it was for, to which Mr. Merrill replied: "Expenses for excursion party, June, 1867, White Mountains." Mr. Davenport then asked the witness if he accompanied that excursion party. To which Mr. Merrill replied that he did not remember whether he did or not.

No further enquiries were made of Mr. Merrill, or any one else, in relation to said item, so far as we are able to find from the reporter's notes, or from our recollection of the evidence.

A very large number of vouchers were presented to witnesses, and their attention called to them by counsel, with the understanding between counsel and the Masters that unless special objection was made to the explanation given to the vouchers, at the time of such presentation, the explanation would be regarded as satisfactory, and no objection made to the item, and in relation to this item no objection was made to it, till it appeared in the requests of counsel after the evidence was closed, and argument commenced. The item is allowed as charged, under objection.

SULLIVAN RAILROAD.

On the 1st day of September, A. D. 1861, Lawrence Brainerd, John Gregory Smith and Joseph Clark, took a lease of the Sullivan Railroad, extending from Windsor, in the State of Vermont, across the Connecticut River into the State of New Hampshire, and thence to Bellows Falls, in the State of Vermont, for the term of five years from the 1st day of September, 1861, and were to pay John S. Eldridge, as rent therefor, the sum of \$18,000 per annum, and in addition thereto, were to allow said Eldridge all the benefit of the contract between the Sullivan Railroad Company, and the Northern New Hampshire Railroad Company, contained in a contract between the said Sullivan and Northern New Hampshire Railroad Companies and the Vermont Central, Vermont & Canada and the Northern New York Railroad Companies, payments for said rent to be made in monthly instalments as follows:

The lessors to allow the lessees to deduct such sum as should thereafter be agreed upon, as due from the lessors or from the Sullivan Railroad Company for arrearages on freight and passengers to the Trustees of the First Mortgage Bonds of the Vermont Central Railroad, and such further sums as the lessees may have expended in making extraordinary repairs, and the balance in cash.

the same ground, and were all made in order to promote travel upon the Trust roads. It has always been customary for railroads to make reasonable contributions of this character, in order to increase the travel upon their roads. We regard the investments so made by the Trustees and Managers, as judicious and clearly in the interests of the Trust roads, and allow the same as charged, under objections by counsel.

The item, "Turkeys for employees, Nov. 24, 1863," was furnished as a Thanksgiving present to the employees of the Trust roads, by the Trustees and Managers. At this time the necessities of life were very high, and wages comparatively low.

The employees complained very much in relation to their necessities. We think that a present of this kind, at the time it was made, can only be regarded as made in the interest of the Trust, and that good management of such property, under the circumstances, would warrant such an investment. The item is allowed as charged, under objection.

The items for contribution to Library and furniture for the Library-room stand upon the same footing. The library is called the "Vermont Central Library," and is one in which the employees of the road own stock by paying an annual contribution. The Railroad provides the room in which the library is kept, and furnishes it. Beyond this they have nothing to do with the expenses. This library has been in use upon the road for twenty years. The employees own shares in it, which it gives them the right to borrow books. The donation of \$1,000 was made by the Trustees and Managers to perfect the library. We regard these investments as made in the best interests of the Trust, and allow the items as charged, under objection by counsel.

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The item for dinners, &c., at the Welden House, was for the expenses of an excursion party connected with the Portland and Ogdensburg Railroad, on their way from Portland to Ogdensburg, at the time they contemplated building the Portland and Ogdensburg road to Swanton. Their business was to look over the route. The Trust were interested in the location of the Portland and Ogdensburg Road. The item is allowed under objection.

The expenses of excursion party to White Mountains, \$106.84 appears regularly upon the Trust books and has been audited and allowed by the Auditing Committee. The voucher embracing this item is numbered 6738.

er Junction, the dividing lines being at that point, an accurate count was kept of the mileage of the engines, and settled between the Trust and the Sullivan Road, the same as car service. The wood account was settled according to the miles run.

The conductors of the Trust road ran through to Bellows Falls, over the Sullivan Road, and their pay was divided between the Trust and the Sullivan, according to the miles run.

The Trust have through conductors who run freight trains between Boston and St. Johns and Rouses point, and each road contributes its proportion of the pay of conductors and baggage masters.

Repair shops were kept upon the Sullivan Road about a year after the lease, and then the repairing for that road was done at the shops at St. Albans, and the Trust was paid for it by the Sullivan Road.

At the time of the execution of the first named lease of the Sullivan Road to Smith, Clark and Brainerd, and for some time previous thereto, there was a contract in existence, made by Mr. Lee, John S. Eldridge and Edward Crane, acting in behalf of the Sullivan Road, and with the Northern New Hampshire Railroad, called the 99 years lease.

This contract was for the purpose of cutting off the construction of what was called the Northern New Hampshire Central Road, a line running in competition with the Northern New Hampshire Road, and the lease was for 99 years.

In this contract the Northern Road made certain concessions to the Sullivan road, giving the Sullivan Road a certain percentage of the estimated business, which was to be paid by the Northern Road to the Sullivan Road, and this percentage went to the benefit of Mr. Crane and Mr. Eldridge.

The New Hampshire Central was the extension of the Sullivan Road, and by this agreement its extension was to be abandoned, and local fares and local tariff for passengers and freight coming from the Vermont Central Road, destined to points accessible by the line, by way of Concord over the Northern New Hampshire Road, were to be charged as against the Vermont Central Road.

This arrangement placed the Trust line at the mercy of the Northern New Hampshire Road, in a very great measure, and was regarded by the Trustees and Managers as very burdensome.

Mr. Eldridge claimed that he realized \$12,000 per year net, as the contribution made by the Northern New Hampshire Road to him, to carry out the arrangement.

This arrangement cut off the Vermont Central from any benefit of access to the Cheshire Road, and this was also regarded as very burdensome.

A contract was also made with the Connecticut and Passumpsic Railroad Company, by which the Connecticut and Passumpsic Railroad Company agreed to turn all their freight over the Northern New Hampshire Road for a period of years.

The effect of the contract, so far as the Sullivan Railroad was concerned, was that all business coming from the Sullivan Railroad should be discriminated against by local tariff instead of a joint tariff. That virtually tied the Vermont Central Line to a single outlet for its business over the Northern New Hampshire Road, and shut out from it the competition for any business between Bellows Falls and Boston, or to Boston by way of Bellows Falls.

At the time of taking the first named lease of the Sullivan Road, that road was indebted for amounts the Sullivan Road had collected from the lower roads, which belonged to the Trust, being the proportions for freights and passengers belonging to the Trust, which amounts were in the hands of John S. Eldridge, who was substantially the owner of the Sullivan Road.

The custom in collecting along the different roads was this wise:

In case of freight going over the Connecticut River Road, that road would collect and take out their proportion, and pay over the balance to the Sullivan Road. The Sullivan Road would then take out their proportion and should hand the balance over to the Trust line; in that way, John S. Eldridge, who acted for the Sullivan Road, collected the balances belonging to the Trust, which constantly accumulated, and did not pay them over to the Trust, and claimed that he was not able to do so.

At this juncture of affairs, Mr. J. Gregory Smith submitted the matter to counsel, Messrs. Peck and Tracy, who had the matter under consideration for a long time, and their advice, touching the matter, may be found in their letter marked Exhibit No. 2.

While the question was being considered by Messrs. Peck and Tracy, in order to stop proceedings, Mr. John S. Eldridge offered to surrender the Sullivan Road to the Trust, on the ground that he could not pay the balances against him.

Under the advice of counsel as above stated, the road was leased to Messrs. Smith, Clark and Brainerd, as appears by the first named lease above referred to: Mr. Eldridge retaining the \$12,000 a year, according to the stipulations with the Northern Road.

The Receivers and Managers claimed before the lease was taken, that they could not recognize the 99 years contract; that it was burdensome and oppressive upon the Trust Roads, and that it absorbed nearly all the profits, and that question was pending at the time the last lease was executed.

Mr. Eldridge was disturbed by the refusal to recognize that contract any further than to allow him to take the benefit of it. He wanted the lessees to carry out the provisions of the contract, but they refused to do it. He claimed that by not carrying out the contract, the consideration for the \$12,000 said Eldridge was to have, would be taken away by the opening of the Sullivan Road to the traffic of the Vermont Central. Whereupon, an arrangement was made by which said Eldridge was to have the benefit of the \$12,000, and the Trust were to have the benefit of opening the line to their roads, and the contract was to be so reformed.

At this, the Northern New Hampshire Road was disturbed; the lessees being in possession of the Sullivan Road and in a position to defeat the Northern New Hampshire Road from holding the Vermont Central to a single line, and single outlet.

Said Clark, Brainerd and Smith had a contract for the further leasing of said Sullivan Railroad when the first lease should expire, and a day was appointed for them to meet and complete the contract.

Mr. Stearns and another gentleman acting for the Northern Road, learning the object of said Clark, Brainerd and Smith, gave a higher price for the Sullivan Road than said Clark, Brainerd and Smith had agreed upon, and said Eldridge unknown to them, arranged for those acting for the Northern New Hampshire Road, to take the Sullivan Road.

The first named lease had run some three or four years at this time, and was then interrupted by the new owners, namely, the Northern New Hampshire Road, who demanded the surrender of the road immediately. The lessees, Clark, Brainerd and Smith, declined to surrender the road, and a sharp controversy arose in relation to the matter.

The Northern New Hampshire Road then proposed to let said Clark, Brainerd and Smith, keep the Sullivan road, provided they would carry out the terms of the 99 years contract.

This, said Clark, Brainerd and Smith refused to do. The Northern Road then gave notice that the lease was abrogated and that they should commence proceedings to get possession of the road.

Whereupon said Smith applied to the Legislature of the State of Vermont, and procured a charter for a railroad from Windsor to Bellows

Falls, a line parallel to the Sullivan Road, and on the West side of the Connecticut River.

The Cheshire and Fitchburg roads, acting in concert, agreed to contribute their proportion of the money to build that line, so as to keep the road open to the traffic of the Vermont Central Road.

Said charter having been granted by the Legislature of Vermont, the Receivers and Managers commenced to survey for the new road, and were about to let a contract to build it, when the Northern New Hampshire Road signified that they did not want the new road built, and finally conceded the Sullivan Road to the lessees, under a new lease, by the terms of which the lessees were not to interfere, as far as the Passumpsic Road was concerned, and said lessees were not to solicit freight for Boston around that way as against the Northern Road.

On these terms the Northern Road extended the lease indefinitely and under these terms the road has since been held.

The Northern Road undertook to take control of the Sullivan Road, and did purchase the rolling stock of said Eldridge and took it away from the road, together with the equipments, and refused to lease it to Clark, Brainerd and Smith. The lessees were consequently obliged to re-stock the road.

An arrangement was then made with the Vermont Central Road to run to Bellows Falls, and Mr. Gyles Merrill, the Superintendent, had instructions to make such a division of it as would fully pay the Vermont Central Road. The matter was left entirely to Mr. Merrill, the Superintendent, who was regarded by all as a man of high integrity, and entirely competent to make a fair adjustment, and we find that such an adjustment was made by him.

All the expenses were settled according to the miles run. The road bed was maintained by the Sullivan Road. The account was kept on a separate set of books for that purpose, and the Sullivan Road was charged with the cost of maintaining it, and with an "arbitrary" added to it, so as to make the Vermont Central Trust amply remunerated for the use of its engines.

The firemen and engineers were paid according to the miles they run, and each road paid its proportion of running expenses on a mileage basis. The Trust collected all the earnings of the road, and these were mingled with the Trust Funds.

At the end of six months, settlements were made by the Receivers and Managers, deducting the cost they had been at, and out of the bal-

and Mr. Eldridge and the Northern New Hampshire Road were paid, and the balance went to the lessees of the Sullivan Road.

The wood used on the Sullivan Road was purchased by the Trust, and charged over to the Sullivan Road on a mileage basis.

The Sullivan Road was operated under said leases as above stated, to July 1, 1873, and the aggregate profits amount to \$391,187.25, as appears upon Exhibit No. 14.

While said Clark, Brainerd and J. G. Smith held the lease, the profits were equally divided between them; after that W. C. Smith became interested in the lease, and he received \$20,000 of the profits, as appears charged upon the books. Said J. G. Smith received the residue, out of which he paid B. P. Cheney \$5,000. Said Cheney was not known in the lease, and assumed none of the responsibilities of the lease.

This last sum was paid said Cheney December 14, 1871.

Whether interest was allowed said Clark, Brainerd and Smith on the Sullivan account is very uncertain from the evidence. The evidence is conflicting, and if any was allowed it is impossible from any evidence before us to determine how much.

We find the amount of profits therefore, as detailed in Exhibit No. 14, and whatever interest was allowed is in that aggregate.

December 1, 1865, the Trust purchased some machinery and tools, of the Sullivan Road. The property was appraised by the Master Mechanic.

In May, 1863, the Trust purchased ten old freight cars, and ten gravel cars, at the price of \$1,300. These cars were pretty much worn. There were two at \$75 each, three at \$100 each, two at \$150 each, and ten gravel cars at \$55 each. They also, about that time, purchased some old rails of the Sullivan Road, and some shop stock.

The expenses of an engine per mile, was got at by Mr. Gyles Merrill, the Superintendent, by taking the engine at its valuation at a former period, July, 1852, adding to it expenses for repairs and rebuilding, and deducting from it the valuation of the engine at the end of a period of ten years, and dividing the same by the miles run, no allowance being made for interest on the capital invested in the engine.

In 1869, the price per mile of the engine was raised from 8½ cents to 12 cents.

Before that 8½ cents per mile was the actual cost of the engine per mile, to the Central Road for use of locomotives, up to the time the changes were made in 1869 arrived at, as above stated.

When the Equipment Loan was made in 1869, by order of the

Court, the engines covered by the Equipment Loan were rated at 12 cents per mile, and the change was then made from 8 $\frac{1}{2}$ cents per mile to 12 cents, upon the Sullivan Road.

We are satisfied from all the evidence upon this subject, that the price charged for the use of engines was ample compensation for such use.

Some of the men who were on the Sullivan Road between Bellows Falls and Windsor, and who did not run over the Vermont Central, were paid by the Sullivan Road, and not out of the Trust Fund, but when the train men run over both roads, payment was made by the Trust, and the Sullivan Road charged on the mileage basis.

The same chief clerk who kept the Trust Books, also kept the Sullivan Books.

The price paid by the Sullivan for passenger and baggage cars, per mile, was 2 $\frac{1}{2}$ cents. Up to 1872, they paid for freight cars 4 $\frac{1}{2}$ cents per ton, per mile. Since that date it has been 4 cents, up to July, 1873.

The National cars, and the V. I. & C. cars used by the Sullivan Road, were paid for at the same rate by the Sullivan Road, as the Central paid for them. No allowance was made for empty cars passing over the road.

The Trust charged for use of locomotives, engineers and firemen, oil and waste, upon regular trains extending on the Addison Road to Port Henry, 30 cents per mile. Twenty cents per mile for fuel, and five cents for passenger, and three cents for baggage cars, per mile.

This arrangement did not exist very long. It is a short piece of road, 17 miles in length, and an opposition road to the Trust, and the Trust charged what they could get, and more than the usual price. The Montreal and Vt. Junction were charged 5 $\frac{1}{2}$ cents per mile, which was the customary charge, and just about what it cost.

In 1865, the Boston and Lowell Road charged the Trust for use of an engine including fireman, engineer, &c., 30 cents per mile for the space of twelve days.

This was a high price, and higher than the usual price charged.

Exhibit No. 14. shows the amount of business yearly on the Sullivan Road during the time it was run by the Lessees.

After the sale of some of the equipment to the Trust, and after the Northern Road took off the rolling stock as above stated, the lessees purchased no rolling stock for the road.

Mr. Giles Merrill's salary, as Superintendent of the road, was raised from time time to time, from \$3,000 to \$6,000.

The Sullivan Road paid nothing towards the clerical force of the Trust, except the \$1,000 to Mr. Merrill as before stated.

The office pay-roll at St. Albans, Voucher 207, covers the salaries of Mr. Hobart, General Freight Agent; Mr. Foss, Master Mechanic; Mr. Lucas, Auditor; Mr. Arnold, Division Superintendent; Mr. Forbes, Chief Clerk; Mr. Elliott, passenger Agent; Mr. Appleton, Ticket Agent; Mr. Hunt, Paymaster; Mr. Sissions, Master Car Builder; Mr. Harris, Assistant Paymaster; Mr. Stanton, Chief Clerk to Superintendent; and amounts to \$2,351.63. This we understand to be the monthly pay-roll, though the reporter's minutes are silent upon that matter.

The Central office at St. Albans had the sole charge of looking up lost baggage. No charge was made against the Sullivan for their services.

The stationary used on the Sullivan Road was furnished by the Trust, and charged over to the Sullivan. In 1866, the amount was \$346.09; 1865, \$443.23; 1864, \$169.07; 1863, \$206; 1862, \$40.90; 1861, \$365.62; 1870, \$347.48; 1871, \$5.75; 1872, \$376.63.

The amount of stationary paid for by the Trust for six months, ending May, 1864, was \$2,735.35; for six months, ending Nov., 1869, \$2,029.86; for six months, ending May, 1870, \$4,424.73; for six months, ending Nov., 1870, \$4,749.69.

The Trust procured of S. S. Larned & Co., lithographic checks for Paymaster, including stamps, costing \$553.50. Of these checks, the Sullivan Road had one thousand, and no charge had been made to that road for them. They should be charged therefor \$22 00.

The advertising for the Sullivan Road was, 1868, \$17.10. 1869, \$15.03; 1870, \$17.88; 1871, \$35; 1866, \$21.43; 1865, \$25; 1864, \$35.83; 1863, \$22; 1862, \$10.

Terminal charges on through freight have sometimes been made.

A terminal charge where it started from and where it terminated. If the freight terminated on the Sullivan, that road would take a terminal charge. And where freight originated on the Trust roads, and passed over and beyond the Sullivan, in settlement between the roads, a terminal charge was allowed the Trust roads, of twenty cents per ton. And the same is true of freight passing over the Sullivan from the South, and terminating on the Trust roads.

The expense of the repair shops of the Trust was not charged to the Sullivan. But such work as was done for the Sullivan at the repair shops, was charged to the Sullivan specifically.

After the Trustees and Managers had commenced to survey the road

from Windsor to Bellows Falls, those acting for the Northern Road came forward and informed the Trustees and Managers that they did not want a parallel line built, and an arrangement was made by which the Northern Road abandoned the Sullivan, and possession was taken by Smith, Brainerd and Clark, under their lease, the Northern extending the lease indefinitely.

The entire expense of procuring the charter, and the survey of the road from Windsor to Bellows Falls, was borne by the Trust.

Some errors were made in keeping the books of the Trust, in not charging over to the Sullivan, items which belonged to the Sullivan to pay. An item of \$7,521 was paid by the Trust in settlement of a claim for damages, by reason of a man being killed on the Sullivan Road which it was the duty of the Sullivan Road to pay, and a release thereof was executed to the Trustees and Managers of the Vermont Central Railroad, dated the 7th day of May, 1872, and the same is referred to and made a part of this report, and marked Exhibit No. 1.

Mr. B. P. Cheney's lawyer drew up the paper marked No. 1, and directions were given personally by Mr. J. G. Smith, to pay the amount of damages \$7,521, out of the Sullivan funds. This item should be charged to the Sullivan Road. This item of \$7,521 was paid in Boston, by Mr. Wilbur, the Treasurer there, and was charged to the Sullivan Road on the Trust books in Boston at the time of its payment.

At the end of the month Mr. Wilbur reported the item to the office at St. Albans, as was his custom, but by mistake omitted to state in his report that it should be charged to the Sullivan Road account. Mr. Coote, who was then working temporarily in the place of Mr. Forbes, in the office in St. Albans, being a new man, did not refer to the voucher to see what account the amount should be charged to, and hence charged it to the Vermont Central account, and not to the Sullivan Road account, where it should have been charged. The mistake seems to have been made by the neglect of Mr. Wilbur, in not giving the new clerk more definite and explicit information.

Also an item for 1,000 lithographic checks, furnished by the Trust to the Sullivan Road, but omitted by mistake to be charged to that road, should be charged to the Sullivan Road at the sum of \$22.00.

Also the following items were paid for by the Trust for the benefit of the Sullivan Road, which were accidentally omitted to be charged to said road, but which should be charged to that road :

Paid attorney for drawing release,	\$25 00
Paid for painting Claremont Bridge,	24 00
Paid H. G. Filer,	50 00
Paid Mr. Bennett,	10 50

The proportion of expenses, other than rent, of the Sullivan Road to the gross earnings during the entire period, appears on Exhibit No. 14, at 65¹/₁₀₀. The ratio for any given year may be obtained from that Exhibit if need be.

The ratio of expenses to earnings on the Vermont Central and Vermont & Canada appear on Exhibit No. 4a, which is referred to, and is made a part of this report.

Expenditures were made on the bridge crossing the Connecticut River at Windsor in 1863, about \$14,800; in 1862, about \$12,000. These expenses commenced Sept. 1, 1861.

The Sullivan Road has two bridges across Connecticut River, and a high bridge over Sugar River.

The distance between Essex Junction and Bellows Falls, by way of White River Junction, is 136 miles, and between the same points by way of Rutland, it is 128 miles.

The lease of the Rutland line was taken by the Trust, January 30, 1871, and may be found in Exhibit No. 22. and since that time the Trust have had the management of the route through Rutland, and also the route over the Vermont Central.

The natural route for freight from New York and below, to points North of Burlington, would be by way of the Sullivan Road and White River Junction. If destined for Burlington, the Rutland route would be the natural route. Freight leaving Essex Junction, and points North of that has usually been taken by the way of White River Junction.

Lawrence Barnes has had no interest in the lease of the Sullivan Road.

The Northern New Hampshire Road declined to lease the Sullivan Road to the Trustees and Managers for any term of time, but proposed to continue it to Messrs. Smith, Brainerd and Clark, in their individual capacity, and the lease was so continued to them.

It was well understood by all the officials of the Trust that the lessees of the Sullivan Road were operating said road in their own interest, receiving the proceeds and assuming the responsibilities incident to their position as lessees.

They also knew the manner in which the accounts were being kept, and the manner in which the business was being done, and made no objection thereto. And said accounts were, as thus kept, from time to time examined by the Advisory Committee and approved by them.

The Trust has received no detriment in the operation of the Sullivan Railroad, in connection with the Trust roads, as it has been done.

MONTREAL AND VERMONT JUNCTION.

This is a line of railroad wholly in the Province of Canada, and extends from Canada line at Highgate to within about two miles of St. Johns, where it intersects with the Stanstead, Shefford & Chambly Railroad.

The charter for this road was granted by the Canadian Government in 1861.

Mr. Philip Moore, of Canada, aided by people along the line of the road and at St. Johns, procured the charter.

The roads southerly, including the Rutland & Burlington Road, were interested in the construction of the Montreal & Vermont Junction Railroad, whereby a through line would be made to Montreal.

J. Gregory Smith appeared before the committee of the Canadian Parliament, at the request of Mr. Moore, to aid in relation to the charter.

Judge Smalley, who was President of the Rutland & Burlington Road, also appeared there several times to aid in procuring the charter. And after the charter was obtained, J. Gregory Smith and Judge Smalley addressed the people along the line of the road, with a view to getting subscriptions for the stock, and at these meetings, said Smith and Smalley promised the people that the construction of the road should be carried forward, provided a certain amount of stock was subscribed for.

The charter having been obtained a company was formed under it, and Philip Moore, A. B. Foster, Des Rivieres, Joseph Clark, J. D. Hatch, J. Gregory Smith and one other, were elected a Board of Directors.

Joseph Clark, A. B. Foster and J. Gregory Smith were managing directors, and as such, on the 23d day of June, 1863, concluded a contract with D. C. Linsley of Burlington, to build the road. That contract is referred to and made a part of this report, and marked Exhibit No. 80.

This contract, among other things, stipulated for said Linsley's furnishing all the materials of every description, and doing all the labor necessary to the completion of said railroad, including the engineering and land surveys, clearing, grubbing, fencing, grading, masonry, bridging, superstructure, ballasting, depot buildings, wood houses, and water stations, but did not include land damages. And said work was to be completed within five years from the 1st of December then next.

And in consideration therefor, the said Railroad Company were to pay the said Linsley the sum of four hundred and forty thousand dollars as follows: One hundred and ten thousand dollars in Canada currency, one hundred thousand dollars in the capital stock of said Montreal & Vermont Junction Railway Company at par, two hundred thousand dol-

lars in the First Mortgage Bonds of said Company, bearing interest at the rate of seven per cent., and payable semi-annually, and thirty thousand dollars in negotiable notes of said company; payments to be made from time to time as stipulated in said contract.

Within ten or twelve days after the making of said contract, said Linsley proceeded to the construction of said railroad under said contract.

This road is about twenty-two miles in length. From its junction with the Stanstead, Shefford & Chambly Road to St. Johns is about 2 miles over said last named road, making twenty-four miles from Canada line to St. Johns.

Said Linsley proceeded with the construction of said road till late in the Summer or early in the Fall of 1864, when he became discouraged, by reason of the great derangement of the finances in the United States and in Canada, but more especially the derangement on this side of the line; and the danger too, as he supposed, of a collision between England and this country, and abandoned the contract.

At this time, the track was partially laid, perhaps about one half. The larger portion of the road was graded.

The track laying was commenced at the northerly end and worked from that point.

All the iron had been purchased and delivered but not distributed. Said Linsley purchased iron of said Foster for about two miles of road. He also bought ties and a large number of chairs of said Foster, and some fence boards. He also had a contract with him to build a bridge, all of which matters were never settled by said Foster and Linsley, but were settled by said Clark and Smith with said Foster, after Linsley abandoned his contract.

At the time said Linsley took the contract there was not a great difference between the currency of the two countries, but as the work progressed, the premium on gold increased till two and a half dollars in our money were only equal to one dollar in Canada money.

Said Linsley's advances were made in States money, as he had no other of his own, and this large difference in the value of the money, with his idea of a war with England, made him very anxious to be released from the contract. Said Linsley had advanced about \$2,600 in cash besides the liabilities he had incurred towards the construction of the road when he abandoned the contract.

At this time, the majority in the Board of Directors of the Montreal and Vermont Junction Company were in the interest of the Trust roads,

and it was thought desirable that the Montreal & Vermont Junction road should be held in that interest.

Meantime the Vermont & Canada Road had done more than two thirds of the work in the construction of the Swanton Branch, a connecting link in the line, and being interested in the prosecution of the work on the Montreal & Vermont Junction Road, a meeting of the Vermont & Canada Company was called to see what should be done in the matter.

The Vermont & Canada Company were unable to furnish money to build the road, but promised that if the Montreal & Vermont Junction Company would go on and build the road, the Vermont & Canada Company would take it off their hands at cost.

After several consultations with the Vermont & Canada Company, the said Joseph Clark and J. G. Smith decided to furnish the money, and complete the road on condition that the Vermont & Canada Company would take it off their hands when it was done.

Said Clark and Smith then individually undertook the completion of the road, and paid off Mr. Linsley's debts, which amounted to about \$25,000.

There was a permanent loan of \$50,000 from the Northern New Hampshire Road, which had been stipulated for in the early stages of the enterprise.

On the 20th day of November, 1865, Messrs. Clark and Smith drew their order on the Superintendent of the Trust road for the sum of \$56,000, requesting said Superintendent to pay to the Montreal & Vermont Junction Company, the sum of fifty-six thousand dollars as per agreement made with said company, jointly with the Rutland & Burlington Railroad at the time of the commencement of the construction of said Montreal & Vermont Junction Railway, being for contribution towards building said road.

Said order was duly accepted by said Superintendent, and paid by him to said Clark and Smith, and the same should be charged to them. Exhibit No. 3 is here referred to, and made a part of this report, as a paper containing said order.

After the Montreal & Vermont Junction Road was completed, Mr. Peck, President of the Vermont & Canada Railroad Company, Mr. Robinson, a Director, and another gentleman, whose name did not appear, gave their assurance that the Vermont & Canada Company would take the Montreal & Vermont Junction Road off the hands of said Clark and Smith.

Several meetings were had to determine what should be done with the Montreal & Vermont Junction road after its completion.

The Vermont & Canada Company did not want to increase their stock.

The question discussed, was whether the Vermont & Canada Road, being but a leased road, could take the Montreal & Vermont Junction Road, unless it could be transferred to the Trust, which, it was understood, could not be done.

It was finally arranged that the Trust should operate the road, using the rolling stock of the Trust, and that said Clark and Smith should keep the road in repair, and the gross earnings be divided between the trust of the one part and said Clark and Smith of the other part.

During the operating of the road under this arrangement, very considerable expenditures were made by said Clark and Smith, in the erection of bridges which had been swept away. Also in the erection of depots to take the place of temporary ones erected when the road was built, and also in the ballasting of the road.

The Montreal & Vermont Junction Road was operated in the manner above indicated till 1872, when the Committee of Bondholders, Messrs Pinkerton and Drury, complained that the arrangement was not right. That said Clark and Smith were making too much money out of the road, and claimed it would be better for the Trust to lease the road of said Clark and Smith, or purchase the road of them.

After several consultations with the Committee of Bondholders and those interested in the Vermont & Canada Railroad Company, it was agreed that said Clark and Smith should receive, as rent for said road, the sum of \$50,000 per year, and it was understood that this arrangement was to take effect June 1, 1872.

The towns along the line of the road subscribed for \$67,000. Said Clark and Smith subscribed \$7,500 each, and the same was paid as the assessments were laid. About \$100,000 was subscribed along the line of the road, besides the \$67,000 subscribed by the towns.

The construction of the Montreal & Vermont Junction Railroad was for the benefit of all the roads southerly in the line. The Northern New Hampshire Road regarded it of benefit to them, hence the loan of \$50,000 to aid in the construction of the road.

The Rutland & Burlington Road so regarded it, and promised to loan \$50,000 to aid in its construction, but did not advance the money. The Trust was also to loan \$50,000 to aid in building the road.

At a meeting of the Board of Directors of the Vermont & Canada

Railroad Company, held February 1st, 1860, on motion of Wm. Blake, the following preamble and resolutions were adopted :

"WHEREAS, In the opinion of this Company, it is expedient and necessary that some arrangement should be made for a sure, effective and successful method of securing and obtaining business upon the line of the Vermont Central and Vermont & Canada Railroads, in order to develop the legitimate and proper resources of said roads, and to prevent a diversion of the business from this to other and competing lines of railroad ;

And whereas, by the recent opening of the Victoria Bridge, over the River St. Lawrence, and the Grand Trunk Road and the competition which is threatened by that road for the business which belongs to and should come over this line, it is expedient and proper that all proper means should be taken by this Company to retain said business, and prevent competition if possible, or if not fully to prevent it, to place this road where they can better meet said competition ;

And whereas, this line of road have heretofore experienced great loss and embarrassment in operating their line for want of a proper connection of the road running from Rouses Point to Montreal, in making up arrangements for running trains and in making up tariffs for transportation, grown out of the position taken by the Directors of said road in refusing to enter into amicable and just arrangements with said Vermont Central and Vermont and Canada Roads for doing their business ;

And whereas, by the Act of the Vermont Legislature, passed November 23d, 1852, and by the provisions of section 66 of chapter 26 of the Compiled Statutes, authority is conferred upon our railroad companies to make contracts and arrangements with each other, and with railroad corporations in other States and in the Provinces of Canada, for leasing or running their road or any part thereof ;

Now, therefore, with a view to facilitate the business of said Vermont Central and Vermont and Canada Railroads, and to provide against, and as far as possible, to protect said railroads from impending and ruinous competition, and also with a view to the better and more full development of the proper and legitimate resources of said Vermont Central and Vermont and Canada Roads,

Resolved, That it is expedient and proper for this company to make arrangements such for connecting with and running, operating or managing the Montreal and Champlain Railroads, embracing the St. Johns Division and the Lachine and Caughnawaga Division, under the provisions of the Acts of the Vermont Legislature as aforesaid.

Resolved, That Lawrence Brainerd, Joseph Clark and J. Gregory Smith be, and that they are hereby appointed and constituted the agents for and in behalf of this company, to carry into effect the foregoing resolution, in such manner as they may deem most to the interest of the Vermont Central and Vermont and Canada Companies, and as will, in in their judgment, best secure the end sought to be attained. Said Agents' action to be joint and no agreement or arrangement to be made unless all of said agents agree therein."

And the records of that meeting are referred to and made a part of this report, and may be found on page 285 of the Vermont and Canada Company's Records.

The Board of Directors of the Vermont and Canada Railroad Company at this time consisted of Lucius B. Peck, President; Edward Mott Robinson, Gardner Brewer, Edward Blake, Hon. John Porter, Jed P. Clark and W. C. Smith.

In pursuance of the action of the Board of Directors of the Vermont and Canada Railroad Company, at said meeting, said Brainerd, Clark and Smith went to Canada to make some arrangements by which the line of railroad could be extended to Montreal, and thereupon entered upon negotiations with the Montreal and Champlain Railroad Company, whereby the Directors of that road voted to lease the road to the Vermont and Canada Company, with a view to the permanent absorption of the road into the Trust line.

The stipulated percentage was agreed upon, but it became necessary for the Directors of the road to call a meeting of its stockholders, and a meeting was duly called to consider the question of this lease to the Vermont and Canada Company.

The Grand Trunk Railroad Company having just completed their bridge across the St. Lawrence, and having settled upon a line of policy to control every avenue to Montreal, managed to acquire a controlling interest in the stock of the Montreal and Champlain Railroad, and thus defeated the lease at said meeting of stockholders. Thereupon, the Grand Trunk Railway Company absorbed the Montreal and Champlain Railroad, and it fell permanently into its control.

During the same year the charter for the Montreal & Vermont Junction Railroad was obtained.

The original application was for a charter from the line through to Montreal, but Mr. Ferrier, who was then a member of Parliament and President of the Canadian Board of Directors of the Grand Trunk Railway, and a Director in the Montreal & Champlain Road, opposed

the charter, and it was defeated. The Quebec Legislature, however, interposed, and a charter was granted from Canada line to St. Johns.

Just before this, and in 1859, an arrangement was made with the Rutland & Burlington Road, by which their interest had become harmonized with the Trust, and they became very much interested in the extension of the Vermont & Canada Road, thus carrying out their early and favorite plan of going to Montreal by way of Highgate.

The Rutland & Burlington Road had been very active in procuring the charter of the Montreal & Vermont Junction Railroad in the Quebec Legislature.

Judge Smalley, President of the Rutland & Burlington Railroad Company, had several interviews with J. Gregory Smith in relation to the extension of the Vermont & Canada Road. He also submitted the question to the Board of Directors of the Vermont & Canada Road, and they submitted the question of their liability under the charter to Judge Isaac F. Redfield, who gave a written opinion.

He decided that the Vermont & Canada Road were obliged to construct the road to Canada line, after the failure to secure the control of the Montreal & Champlain Road.

J. Gregory Smith reported to the Directors of the Vermont & Canada Road what had been done in relation to the Montreal & Champlain Road, and in relation to the Montreal & Vermont Junction Road; and it became a question whether further efforts should be made to carry out the purpose of getting a through line to Montreal.

It was then suggested that the Trust get control of the charter of the Stanstead, Shefford & Chambly Road, which had a perpetual right to build a road from St. Johns to Montreal, inasmuch as the Grand Trunk Railroad Company were looking to that road to get a connection with the Passumpsic Road, and thus have that outlet for through business to Boston.

The Directors of the Vermont & Canada Road were anxious that the Trust should get control of the Stanstead, Shefford & Chambly Road, and thus secure an independent road into Montreal, which was then considered and is a very important point.

Just at this time, those acting in the interest of the Vermont Central and Vermont & Canada Roads, succeeded in getting control of the charter of the Montreal & Vermont Junction Road, under a pledge, that if it was surrendered to them they would go on and build the road; and there was an understanding that the Rutland & Burlington Road should contribute \$50,000, and the Trust should contribute an equal

amount to aid in the construction of the road. The \$50,000, to be contributed by the Trust, was to be shared in by the whole line to Boston.

It was also understood that when the Montreal & Vermont Junction Road was completed, the Vermont & Canada Company or the Trust were to take it off the hands of said Clark and Smith; and when the surrender of Mr. Linsley took place that question arose, and it was then expected that the Vermont & Canada Road or the Trust would advance money to aid in the completion of the road.

At that time the Vermont & Canada Company applied to said Clark and Smith and urged them to go on with the road, claiming that it was of the greatest importance to them that it should be completed; claiming that the failure to construct the road would leave the Vermont & Canada Road without an outlet, and that the money expended on their road would be thrown away.

Said Clark and Smith, feeling that they had a double obligation resting upon them, first, to help the Vermont & Canada Road, and secondly, to redeem their pledge to the parties on the line of the Montreal & Vermont Junction Road, in promising to carry forward the work, as a condition of the surrender of the control of the charter to them, took hold and completed the road with the expectation that it would immediately come into possession of the Vermont & Canada Company in some form, either as a lease or purchase, when it was completed. And at the time of the surrender of Linsley and the request of the Vermont & Canada Company that said Clark and Smith go on with the work, the question was agitated with the Vermont & Canada Company as to the method of doing it.

Mr. Lucius B. Peck, then President of the Vermont & Canada Company said he did not see how it was to be done, that they could not go to their stockholders for an increase of capital to purchase the road, and with reference to leasing it, he said they were but a leased line themselves, with no equipment and no power to perform a lease.

The road was completed, and the matter was allowed to lie along till January, 1871, when said Clark and Smith understood it was to be closed one way or another; and to that end, said Smith personally solicited the Vermont & Canada Company to take action in the matter, and thereupon, they did take action on it as follows:

At a meeting of the Directors of the Vermont & Canada Railroad Company, holden January 5th, 1871, as appears from their Records on page 386, the following preamble and resolution were submitted and passed:

"WHEREAS, the Montreal and Vermont Junction Railroad, extending from the Province Line in the Town of St. Armand, Province of Quebec, to the point of junction with the Stanstead, Shefford and Chambly Railroad, near St. Johns, in said Province, constitutes a part of the line of the Vermont Central and Vermont and Canada Railroads, between S. Albans and Montreal, and is the only mode of connection under the control of the Vermont Central and Vermont and Canada Roads with the Stanstead, Shefford and Chambly Railroad, now owned and controlled by the Vermont Central, and, whereas, it is desirable to place said Montreal and Vermont Junction Railroad in a position where it may be permanently under control of this line of road, therefore,

Resolved, That the President, Messrs. Porter and Atherton be a committee with full powers to confer with the Trustees and Managers of the Vermont Central and Vermont and Canada Railroads, as to the best methods of securing the said Montreal and Vermont Junction Railroad on some safe and permanent basis and to assent in behalf of this company to such contract or management as may be agreed upon between said Trustees and Managers of Montreal and Vermont Junction Railroad Company; provided that in whatever contract may be made for the Montreal and Vermont Junction Railroad, the Trustees and Managers of the Vermont Central and Vermont and Canada shall assume the running and operating of said road, so long as they shall continue in possession of said roads, and save harmless the Vermont and Canada from any liability on account of any claims for damages, or any losses which may occur, arising from the running and operating said roads."

The Montreal and Vermont Junction Railroad was projected and built, in order to get a through line, by which the Trust roads would be benefitted, as well as other roads in the line, and for the benefit of the inhabitants along the route.

At one time it was contemplated that the Vermont and Canada Company would increase their capital stock and purchase the Montreal and Vermont Junction Road, and in that event, whatever said Clark and Smith had individually advanced in the construction of said road, would be repaid to them in Vermont and Canada stock.

Joseph Clark, A. B. Foster and J. Gregory Smith continued to be Managing Directors of the Montreal and Vermont Junction Road, till the surrender of Linsley, but after that, the work was carried forward by said Clark and Smith and they have since that time been the real Managing Directors of said road, though said Foster may have been a Managing Director nominally, after the surrender of said Linsley.

The Vermont & Canada Company advised that control of the Stanstead, Shefford & Chambly Railroad be obtained, and thus prevent the Grand Trunk Railroad from making a connection with the competing line by way of the Passumpsic Road, and by way of Lake Memphremagog & Massawippi Road, and also to get the right of building into Montreal by a charter already in existence.

The Grand Trunk Company were then trying to get control of the Stanstead, Shefford & Chambly Road, and it was necessary to move cautiously to obtain control of that road.

Mr. Foster was then in want of some money. The Grand Trunk Company had been charging him heavily for use of power, and said Foster came to said Smith and stated his embarrassment and said Smith advanced him some money, and from that time commenced the operation of getting control of that road.

More money was furnished him from time to time and as security, his machinery was taken onto the Trust roads, and machinery belonging to the Trust was put onto the Stanstead, Shefford & Chambly Road. These negotiations resulted in the execution of the lease of that road to said Clark and Smith, and they entered into possession.

This arrangement was made entirely in the interest and for the benefit of the Trust, and said Clark and Smith so held said lease.

During these negotiations said Smith was repeatedly in consultation with the Directors of the Vermont & Canada Company, and also with the committee of the Bondholders in relation thereto.

The lease to Clark and Smith was virtually a lease to the Montreal & Vermont Junction Road, and that road, together with the leased line, it was expected and understood, would eventually come under the control of the Trust. The intention was to pass the Stanstead, Shefford & Chambly Road to the Trust through the Montreal & Vermont Junction Company.

The Montreal & Vermont Junction Company issued bonds to the amount of \$200,000. They also issued their notes to a very considerable amount, to defray the expenses of procuring the charter and to pay for land damages.

They also issued notes to said Linsley to the amount of about \$40,000.

Said Clark and Smith purchased in nearly all the stock of the Montreal & Vermont Junction Road at not over 25 cents on the dollar, and they also own the principal part of the bonds.

Said Clark and Smith bought in the form debentures at 25 cents on the dollar in gold; and they also paid off said Linsley's debts when he surrendered the road. The Amount expended by him was about \$225,000.

How much was paid said Linsley in gold and how much in currency, did not appear, nor did the dates of said payments appear any further than is shown on Exhibit No. 79.

Mr. Linsley continued to have supervision of the engineering, after he surrendered the road till it was completed.

Mr. Hale was Assistant Engineer and did most of the work in that department.

At the time of the surrender, Mr. Linsley agreed to continue a supervision of the work, and did so without compensation.

The last payment to Linsley appears charged on Exhibit No. 79, under date of November 12th, 1864.

The Montreal and Vermont Junction Road was opened for business in January, 1865.

After the surrender by said Linsley to Clark and Smith, said Clark had nearly the entire supervision of the completion of the work, and whatever minutes were kept in relation to it were kept by him, said Smith taking very little supervision of the work.

Said Clark and Smith put into said road something like \$300,000, or about that, besides the amount paid for the bonds and stock. What proportion of this was in gold and what proportion in currency, did not appear, except as appears on Exhibit No. 79.

No account of the doings of said Clark in the construction of said road can be found, which gives anything near an accurate statement of the expenditures made by him in completing the work; and at the time of the hearing before the Masters, Mr. Clark was rendered incapable of attending before them, by reason of bodily infirmities, and his mind was so far debilitated that he could give little or no information to any one in relation to the transaction.

No settlement has ever been made between him and the said J. Gregory Smith, and it did not appear how their accounts stood, as between themselves, though they have always shared equally in the income from said road.

A statement of the cost of construction of the Montreal and Vermont Junction Road, by Jed P. Clark, a witness, was produced before us, and said statement is made an Exhibit and marked No. 79.

This statement was made up by said Jed P. Clark, in part from vouchers executed by said Linsley, and partly from estimates made by said Jed P. Clark; J. Gregory Smith assisting said Clark in making the estimates.

The statement was presented before the Masters the last day but one before the evidence was closed.

The item under date of July 13th, of \$50,000, and July 22d, 1863, \$17,000, has reference to a transfer of municipal bonds from Joseph Clark and J. Gregory Smith to said Linsley. These bonds were transferred by said Clark and Smith to said Linsley at par, in part payment of the construction of the road, under the above named contract between the Managing Directors and said Linsley.

The voucher for the \$50,000 is as follows :

ST. ALBANS, July 13th, 1863.

Received of Joseph Clark and J. Gregory Smith, Managing Directors M. and Vt. J. R. R., \$50,000 in Municipal Bonds at par, on account of purchase of materials for construction of said railway as per contract.

(Signed,)

D. C. LINSLEY.

And the voucher for \$17,000 is as follows :

ST. ALBANS, July, 22d, 1863.

Received of Joseph Clark, and J. Gregory Smith, Managing Directors M. and Vt. J. R. R., \$17,000 in Municipal Bonds at par, on account of contract for construction of said road.

(Signed,)

D. C. LINSLEY.

The item, "Construction Account," is made up of items accruing for the road was being operated by the Trust, and appears in Exhibit No. 19, and were deducted, as they accrued, from the one half the gross earnings paid to Clark and Smith. This item, on Exhibit No. 79, was taken from Exhibit No. 19.

The various items of interest on Exhibit No. 79 are computed to January 1st, 1866, hence there is an error in the computation on this item, as the account did not accrue till after January, 1865, when the operation of the road by the Trust commenced.

The premium, too, seems to be out of place, as the item was arranged on Exhibit No 19 on a currency basis. Interest was cast on this Exhibit at 7 per cent.

The next item on Exhibit No. 79, is "Government Debentures, \$2,338.73."

This item is a portion of the Canada debentures, but what class of debentures did not appear, and we think it embraced in the other items.

The items of land damages, fencing, depots, bridges, sidings, Y, and incidental expenses, are estimates, and not taken from actual data.

The item of \$80,000, being amount to complete the road after Linsley surrendered his contract, is an estimate and made for the reason as is claimed, that other items are estimated too low, and this item was added to make the other items what they should have been.

All the items after the footing \$746,881.35 were added to the Exhibit after it was presented before the Masters.

Exhibit No. 6 is referred to and made a part of this report, and is an agreement, assignment and transfer from A. B. Foster to J. Gregory Smith and Joseph Clark, and refers to the \$50,000 paid A. B. Foster on Exhibit No. 79, under date of April 6th, 1866.

On the 27th day of May, 1868, P. H. Moore, President of the Montreal and Vermont Junction Railroad, executed three notes to Joseph Clark on behalf of said railroad, for \$34,567 each, with interest at 8 per cent., and said notes were countersigned by J. C. Baker, Treasurer of said railroad Company, and payable at the office of the Treasurer of the company at Stanbridge, C. E.

Three other notes were issued for the same amount and precisely like the ones above named, except that they were payable to J. Gregory Smith, and said notes are uncanceled. These notes were produced before the Masters and may be referred to.

After the Montreal and Vermont Junction Road was completed, it became a question how it should be operated, and said Clark and Smith being interested in the road, as above stated, did not feel at liberty to make a contract with themselves as Receivers, and submitted the matter to Gyles Merrill, Superintendent of the Trust roads, for him to determine upon what terms the Trust should operate the road.

He decided that it would be fair to divide the gross earnings, thus giving said Clark and Smith one-half of the gross earnings; and this course was adopted and carried out up to 1872, when the Committee of Bondholders complained that this was not an equitable arrangement, and a rent of \$50,000 per year was agreed to be paid to said Clark and Smith by the Trust for the use of said road; and when the Central Vermont was organized, July 1st, 1873, the road was leased of Clark and Smith for \$50,000 per year, and the Central Vermont has paid them that sum yearly ever since, for the use of said road. The gross earnings were divided and one half paid to said Clark and Smith up to June 1st, 1872, according to exhibit No. 19, being \$405,807.81. From June 1st, 1872, to July 1st 1873, one-half the gross earnings, being \$90,803.65, have not been paid to said Clark and Smith.

In operating the Montreal and Vermont Junction Road, the two miles of road from the Junction to St. Johns, being a portion of the Stanstead, Shefford and Chambly Road, was operated with the Montreal and Vermont Junction, and the gross earnings divided between the Trust and said Clark and Smith, being included in the gross earnings of the Montreal and Vermont Junction Road.

A line had been formed from Boston to St. Johns, by which the Vermont roads "prorated" on the business going over the line, and in the vision; the Montreal and Vermont Junction Road including the said 30 miles of the Stanstead, Shefford and Chambly Road was called thirty miles, thus giving a greater dividend to that road than its actual mileage would warrant.

Exhibit No. 30a, is a statement of the operating expenses of the Montreal and Vermont Junction Road, and is referred to and made a part of this report.

The greater portion of the business over the Montreal and Vermont Junction Road is through business, which pays much less than local business.

The proportion of operating expenses of the Vermont Central and Montreal & Canada Road, the Rutland Road during the time it has been operated by the Trust, the Ogdensburgh Road during the same time, the Missisquoi Road, the Stanstead, Shefford and Chambly and the Sullivan Road, may be ascertained by reference to exhibits referred to embracing the operating expenses and earnings of said roads.

None of the earnings of the Montreal and Vermont Junction Road were paid into the Treasury of said road, but were divided between the Trust and said Clark and Smith as heretofore stated; and no dividends have been declared on the stock of said road, and said Clark and Smith have never made any report to the stockholders of said road.

A copy of the estimates made by J. Gregory Smith, and given to Mr. Drury, is referred to and made a part of this report, and is marked Exhibit No. 88.

Evidence was introduced before us of the estimated cost of constructing said road, with the exhibits already referred to.

We are unable from the evidence to ascertain the actual cost of the road, from the fact that no minutes can be found giving such cost, and Mr. Clark, who had charge of the works, by reason of his infirmities, as above stated, was unable to give any information upon the subject.

From all the evidence we are led to believe that the cost of the Montreal & Vermont Junction Road was something over seven hundred thousand dollars, and so we find the fact to be.

When the Montreal & Vermont Junction Road was completed by said Clark and Smith, its operation became a difficult matter to arrange, considering the relation said Clark and Smith sustained to the Trust, and the arrangement then made at the suggestion of Mr. Merrill, as fair and equitable, it was not expected would continue for any considerable length

of time, but was considered only a temporary arrangement until definite action could be taken by the Vermont & Canada Company, or the Trust, in relation to the matter.

Unexpectedly, the matter lay along under the arrangement, which was only regarded as temporary, and without objection from the Vermont & Canada Company, or the Committee of Bondholders, till 1872, when the Committee of Bondholders objected to the arrangement, and a definite rental of \$50,000 a year was agreed upon between the said committee and said Clark and Smith, to be paid by the Trust to said Clark and Smith.

From the evidence, we find that no valid contract was made at the commencement of the operation of said road by the Trust, binding upon the parties, and that the question is still open for adjustment before us.

We therefore find that a fair rental value of said road, during the whole time it has been operated by the Trust, is \$50,000 per year; and that the money received by said Clark and Smith up to June 1st, 1872, as appears upon Exhibit No. 19, is to be applied to the liquidation of said rent at \$50,000 per annum, and interest to be cast at 6 per cent. on the yearly balances, and the balance to be paid by the party in arrear to the other party.

We have not regarded it our duty as Masters, to determine what equitable interest, if any, the Vermont & Canada Railroad Company or the Trust have in and to the Montreal & Vermont Junction Railroad. The technical title, at all events, stands in the Montreal & Vermont Junction Railroad Company, or said Smith and Clark, or all of them; and to vest that title in the Vermont & Canada Railroad Company, or in the Trust, it seems to us, would require a proceeding in the Court of Chancery, brought directly for the purpose of transferring that title upon such terms and conditions as might be imposed by the Court of Chancery.

And if it is true that the Vermont & Canada Railroad Company, or the Trust, have the equitable title to the Montreal & Vermont Junction Railroad, then said Clark and Smith can only be regarded as holding it in trust for the equitable owner, and must account for the rents and profits received by them from said property on an accounting in a proceeding by which the Court of Chancery are asked to transfer the title.

The requests and objections made by counsel touching the Montreal & Vermont Junction Railroad will be found among the requests by Mr. Willard, and are referred to and made a part of this report.

During the hearing on the 22d day of July, 1875, and on the trial

of said cause, J. Gregory Smith was asked to produce the books of the Montreal & Vermont Junction Company before the Masters.

Said Smith declined to produce them on the ground that the Montreal & Vermont Junction Company was a foreign corporation and that the books were under the control of that corporation at their office in Canada, and that he, as an individual, had no right to control said books.

Having declined to produce the books for these reasons, counsel requested the Masters to order said Smith to produce said books, which the Masters declined to do.

STANSTEAD, SHEFFORD & CHAMBLY ROAD.

This road is in the Province of Canada, and is about 44 miles in length, and extends from Waterloo to St. Johns, connecting with the Montreal & Vermont Junction Road two miles from St. Johns.

After the failure to get control of the Montreal & Champlain Railroad, it was regarded of very great importance by the Vermont & Canada Company, and the Trust to get control of the Stanstead, Shefford & Chambly Road, as that road held a charter to build a road from St. Johns to Montreal, and thereby an independent line of road could be obtained from Canada line at Highgate to Montreal, thus making a through line for the Trust roads, wholly under their control.

To this end frequent conferences were had by said Clark and J. Gregory Smith, with the Vermont & Canada Company Directors, in which the Vermont & Canada Company urged the necessity of getting control of this road, and in pursuance of these conferences, and at the request of the Vermont & Canada Company, said Clark and Smith, as early as 1861, commenced negotiations with Mr. A. B. Foster, who held a lease of the road, dated the 20th day of July, 1861, which is referred to and made a part of this report and marked Exhibit No. 13.

Said Clark and Smith, acting for and on behalf of the Trust roads, and with a view to the final absorption of the S. S. & C. Road by the Trust, commenced to loan said Foster money, and from time to time entered into business arrangements with him in relation to said road, until said road was finally purchased by the Trust as hereinafter stated. The object in procuring this road was partly to prevent it from being a competing line, and partly to secure the charter to build into Montreal.

As evidencing some of the transactions between said Clark and Smith, and said A. B. Foster touching said matter, a contract between said Clark and Smith of the one part, and said Foster of the other part,

dated May 11, 1866, is referred to and made a part of this report, and marked Exhibit No. 5.

Also a contract dated Dec. 31, 1862, marked Exhibit No. 92, Exhibit No. 10, Exhibit No. 7, Exhibits No. 10a., and No. 10b., also Exhibit No. 29, are referred to and made a part of this report.

Whatever was done by said Clark and Smith in relation to this matter, though in their own name, was for, and on behalf of the Trust roads, and was so understood, not only by the Vermont & Canada Company but by all parties who had occasion to know the doings of the Trust. This mode of operation was regarded as the most feasible to obtain the object sought to be accomplished.

All the benefits and money arising from the transactions of said Clark and Smith in relation to said road, until the purchase of it by the Trust inured to the Trust.

In 1865, the First and Second Mortgage Bondholders having appointed a committee of six, consisting of Messrs. Emery, Andrews and Mr. Drury or Mr. Pinkerton, Judge Hepburn, O. W. Davis and another gentleman whose name did not appear, said Smith and Clark were in consultation with said committee, and the Vermont & Canada Company from time to time, reporting to them the progress being made by said Clark and Smith, in relation to the S., S. & C. Road, and in June 1865, said committee invited the Bondholders to go and see the property. This invitation was very general, and the result was that a very large excursion of Bondholders went over the line of the S., S. & C. Road, with the express purpose of examining the property with a view to its purchase.

On the 11th day of May, 1866, said Foster's interest in the road was obtained, as appears by Exhibit No. 5, but in order to get the full title to the road, on consultation with the First and Second Mortgage Bondholders, it was determined to purchase all the stock and Bonds of that road. And this was done.

The Trust thus holding, by the contract between Clark and Smith, and Foster, and the purchase of all the stock and Bonds, the entire interest in the Stanstead, Shefford & Chambly Road, it became a part of the Vermont Central and Vermont & Canada line.

By a Decree of the Court of Chancery under date of May 1, 1867— which is referred to, and made a part of this report, and may be found on pages 208 to 214 of the volume of Charters, Decrees and Leases, a loan of \$500,000 was authorized, and the stock, and Bonds of the S. S. & C. Road were to be held as collateral security for the payment of said \$500,000 of notes or bonds so authorized to be issued.

The S., S. & C. Road was completed, and went into operation in 1861. Said Foster, at this time, owned a very considerable amount of bonds, and a portion of the bonds. The lease above referred to, and marked No. 13, shows the terms on which said road was taken by him in 1861.

The through business to Montreal since January, 1865, has been carried over the Montreal & Vermont Junction Road, and about two miles of the S., S. & C. Road. This line is about three miles shorter than the line formerly used for that business over the Montreal & Champlain line. The Montreal & Champlain line connects with the Trust at Rouses Point. The line over the Montreal & Vermont Junction Road, and about two miles over the S., S. & C. Road, connects with the old Trunk at St. Johns.

The first loan made to said Foster, after negotiations commenced to bring the S., S. & C. Road into the Trust line, was \$20,000, furnished by the Trust for this loan, as well as loans to said Foster afterwards.

The dealings with Foster did not appear upon the regular books of the Trust, until about the time they got the entire control of the road, in any rate, as late as 1865.

After the contract of December 31, 1862, said Foster continued to operate the road, and took all the earnings of the road till it passed into the Trust line. And his account with the S., S. & C. Road appears on Exhibit No. 29.

This account shows that said Foster received \$39,310.30, and the same is charged to him on the S. S. & C. books. The amount so received by said Foster was not enough to pay him the rent of \$21,000 per year stipulated for in the contract, or lease of December 31, 1862, marked Exhibit No. 92.

The purchase of Foster's interest in the road by the Trust, acting through said Clark and Smith, was made May 11, 1866, and is found in marked in Exhibit No. 5, and the sums therein stipulated to be paid for the S., S. & C. Road were paid by the Trust.

Prior to the purchase of Foster's interest in the S., S. & C. Road as is stated, about \$350,000 of the bonds of the S., S. & C. Road had been turned out to certain creditors of the S., S. & C. Road residing in Montreal, and, to secure them for advances they had made to said road to the amount of \$154,000.

On the 2d day of February, 1867, the Trust roads, by their agents, Gregory Smith and Joseph Clark, entered into a contract with said Montreal Bondholders, in relation to said bonds, and the amount due said

English creditors, which is referred to for a full detail, and is marked Exhibit No. 7. In pursuance of this agreement, the Trust have paid the said English creditors interest on their said claims to the extent of \$38,639.95, as appears by items set down upon Exhibit No. 106, and that exhibit is referred to for the items of interest so paid.

On the 10th, day of December, 1865, Exhibit No. 10a was executed by said Clark and Smith, and the same purports to be a bill of certain rolling stock, and a receipt by said Clark and Smith. And at the same date, another paper was made by them, purporting to be a bill of certain articles, and a receipt for the amount therein named, and said paper is made an Exhibit, and marked No. 10b. Exhibit No. 10, above referred to, purports to be a bill for shop stock, supplies, accounts, &c., upon the S., S. & C. road when possession of said road was taken by the Trust.

All the dealings between Smith and Clark of the one part, and Foster of the other, touching the S. S. & C. Road, were settled when the the Trust made the purchase of that road, and whatever the operations of the road were up to that time, after Smith and Clark commenced negotiations for it, belonged to the Trust, said Smith and Clark having no personal interest in it.

Very much, if not all, the deal between the said Clark and Smith and Foster was kept on memoranda, and did not appear on the Trust books till near the time of the purchase of S., S. & C. Road by the Trust.

In relation to Exhibits 10a and 10b, no money was in fact received by said Clark and Smith, as the Exhibits on their face would import.

These two vouchers were the setting up of the monies which the Trust had loaned to Foster. Mr. Merrill, who was at that time the Financial Agent, being about to end his relation with the Trust, insisted, upon the matter being settled up, and as said Smith and Clark had made the negotiations with Foster, Mr. Merrill held them responsible for the amount. For the money loaned to Foster, the Trust took the property named in the Exhibits, and said Foster was credited to that extent; and the manner in which the business was done, as indicated by said exhibits was simply a matter of form in turning over the property, and settling the matter.

The purchase of the S., S. & C. Road was about a year after the property named in the exhibits was taken by the Trust, and this property had no connection with the purchase of the road, though the engine "A. B. Foster," and other rolling stock, is named in the contract of purchase for the purpose of covering the whole transaction and getting the total cost to the Trust.

In relation to Exhibit No. 10, the amount there represented \$8,048.54, was due to said Clark and Smith, on deal growing out of the S., S. & C. Road, March 1, 1869, and in payment thereof said Clark and Smith took two notes, each for the sum of \$14,024.27. This voucher together with No. 10a and No. 10b, shows the turning over to the Trust, the property which was on hand upon the S. S. & C. Road, during the time the same was operated by said Clark and Smith as lessees.

During the time said Clark and Smith were lessees of the S., S. & C. Road, the Trust furnished the money to operate the road, but said Foster actually ran it.

He refused to give it up till the purchase was consummated.

Said Foster took all the net earnings of the road, and they were counted for on the rent.

From the time said Clark and Smith first began negotiations with said Foster, down to the time of the purchase of the road by the Trust, all the operations of the road were carried on by said Clark and Smith as lessees, yet for the benefit of the Trust, said Clark and Smith became responsible for everything, accounted for everything, purchased the property, and ran all the risk.

And the settlements, represented by Exhibits No. 10a and 10b, ended their relations personally with the property.

On the 20th of November, 1865, said Clark and Smith drew their order on the Trust as follows:

G. MERRILL, Esq.,

"Supt. Vermont Central and Vermont & Canada Roads:

"Please pay to the Hon. A. B. Foster \$65,000, on account of bonds of the S., S. & C. Road, amounting to 1,118 bonds for £110 sterling each, and 250 coupons of said bonds detached, and 5,000 shares of capital stock of said company, which you will hold as collateral security until the above amount is paid."

The money named in this order was paid to said Foster by Mr. Merrill out of the funds of the Trust, as a loan to said Foster by the Trust, and the collaterals named in the order were held by the Trust as security. And when the Trust purchased the S., S. & C. Road, the \$65,000 was settled for in that purchase.

This \$65,000 was originally charged to said Foster as an item by himself, and in January, 1868, it was balanced by a charge to the S. S. & C. Road under the purchase account.

In the purchase of the S., S. & C. Road, the balance of the rent due to Foster under the lease to Clark and Smith was adjusted. Also a cer-

tain amount which the Trust paid on eleven checks drawn by said Foster on the Eastern Townships Bank amounting Nov. 1868, to \$5,874.40.

There is now standing on the books of the Trust, an account against said Foster amounting July 1st, 1873, to \$15,009.71. It did not appear whether said Foster has any offset to this account, nor did it appear whether said account could be collected of said Foster.

The total amount of the stock of the S., S. & C. Road is a little over \$500,000, and the Trust holds about \$500,000 of it. This stock has never been transferred on the S., S. & C. books, but it is held by the Trust under an assignment in blank on the back of it. The agreement of May 11, 1866, and the assignment of the stock as above named, constitute the title of the S., S. & C. Road as held by the Trust.

In the early negotiations for the S., S. & C. Road, it was understood that the Trust roads, being foreign corporations, could not take a lease of the S., S. & C. Road, while the Montreal & Vermont Junction could, by the laws of Canada, take a lease of it; hence it was intended that the Montreal & Vermont Junction Road should take a lease of it, and when the Vermont & Canada Company took control of the Montreal & Vermont Junction Road, as it was expected they would do, the S., S. & C. Road would thereby be absorbed into the Trust, but another course was afterwards adopted, and the Trust made the purchase as above detailed.

The yearly earnings and operating expenses of the S., S. & C. Road, during its entire operation to July 1, 1873, may be found on Exhibit No. 26, and the same is referred to and made a part of this report.

The amount of Foster's interest in the Montreal & Vermont Junction Road, conveyed to said Clark and Smith, May 11, 1866, did not appear. The account which said Foster had against said Clark and Smith, for ties, iron, spikes, &c., and his interest in said road, amounted, as agreed upon by the parties, to \$50,000, for the payment of which said Clark and Smith executed their promissory notes to said Foster. The account embraced in this transaction was called for, but could not be found, and was not produced any farther than appears in the contract marked Exhibit No. 6. *relating to 2 notes of 25000 each*

The respective claims made by counsel in relation to this branch of the case may be found on pages 42 and 43 of the printed requests of Messrs. Simons and Walker, and the same are referred to and made a part of this report.

A Decree of the Court of Chancery, made on the first day of May, 1867, among other things, authorized a loan of \$500,000 on the S., S. & C. Road, and the petition on which said Decree is predicated are referred

to and made a part of this report, and said Decree may be found on pages 208 to 214, in the Volume of Charters, Decrees and Leases. We find no other Decree or Order from the Court of Chancery touching the S., S. & C. Road.

The S., S. & C. Road was purchased in 1866, by the Trust, as heretofore stated, and the Trustees and Managers' report of May 31, 1867 may be referred to as the first report touching that road.

On the part of the Vermont & Canada Company, counsel objected to the allowance of all charges for the payment of interest on the Stanstead, Shefford & Chambly loan, so called, in excess of the net earnings and income of the Stanstead, Shefford & Chambly Railroad, and denies that said loan, or the interest upon it, can rightfully be treated as a charge upon the Trust property or the income of the same.

The yearly earnings and expenses of the S., S. & C. Road may be found on Exhibit No. 26, and no evidence has been furnished us of the earnings and expenses by periods of six months. We cannot, therefore, find the same by periods of six months as requested.

The interest paid on the S., S. & C. Road Bonds held by the English creditors, and the interest paid on S., S. & C. loan of \$500,000, appears on Exhibit No. 106. All said interest has been paid out of the general fund of the Trust.

The cost of the S., S. & C. Road up to July 1, 1873, when the account thereof was turned over to the Central Vermont, as appears by the books, was \$475,336.67.

The first payment of interest to the English Bondholders covers the time from July 1, 1864, to the 1st day of January, 1867, and amounts to \$19,250. This was paid in gold, and, as appears by the contract marked Exhibit No. 7, was paid at the execution of the contract.

All the interest has been paid by the Trust to the English Bondholders to July 1, 1873, and the payments of such interest are represented on Exhibit No. 106, covering the period therein named—January 1, 1869, to July 1, 1873.

The interest from January 1, 1867, to July 1, 1868, does not appear on this exhibit, but we infer its payment from the fact of subsequent payments of interest appearing upon said exhibit, and at the same rate of such subsequent payments.

All said payments of interest were made in gold.

Exhibit No. 8 purports to represent the payments of interest to the English Bondholders, and covers very nearly the time named in Exhibit No. 106, but for some reason the payments are different in amount, and

we are inclined to adopt the payments, as represented on Exhibit No. 106, as the true amount of interest paid to said English Bondholders, covering the time there named, and in gold, while Exhibit No. 8 may represent the same thing, though represented by American currency in part.

Counsel for the Orators objected to any allowance of charges in the accounts of said Receivers and Managers, for sums paid to what are called English bondholders, being holders of bonds of the Stanstead, Shefford and Chambly Railroad, out of any funds, except such as have been in the hands of said Receivers and Managers, from the net earnings, profits and income of the Stanstead, Shefford and Chambly Railroad.

In connection with the S., S. & C., Road, the Trust have constructed a tram road from Waterloo to certain copper mines, twelve miles distant from Waterloo. This road was constructed entirely by the Trust, and those along the route. This tram road is very nearly, if not quite, along and upon the original charter of the S., S. & C. Road, but in order to obtain the subsidy given by the Government for the construction of this road to the mines, it was necessary to build it under a new charter. A subsidy of 10,000 acres of timber land had been given by the Government to the mining company to encourage the building of a road from Waterloo to the mines, at 50 cents per acre. These mines were sold to some English parties, who came over with a large capital to develop the mines.

These English parties made the proposition that if the Trust would extend the road to the mines, they would surrender the subsidy to the Trust, subject to the payment of 50 cents per acre, and give the road their business.

Upon this proposition the Trust decided to build the road.

In the construction of this road, the Trust expended up to July 1, 1873, \$75,818.44. Since July, 1, 1873, the present Receivers have made arrangements for the extension of the road to the outlet of Lake Memphremagog, and parties there have obtained additional subsidies from the Government for that purpose. It is expected that the road will be extended to Lake Memphremagog at an early day, and that the property of the tram road will be worked into that road at \$150,000. A large portion of the tram road will be used in the extension of the road to Lake Memphremagog.

This extension to Lake Memphremagog is under the Waterloo and Magog Company.

After using said twelve miles of road for a while as a tram road, iron rails were laid upon it.

The Trust have paid the Government of Canada \$3,100.38, in part payment for said 10,000 acres of land and Exhibit No. 89 shows this payment. Also, a letter from the Canadian officials touching said land, and a memorandum of said land, which is referred to and made a part of this report. The patent for said land has not yet been obtained by the Trust.

There is no fixed time for running trains over said road to the mines. They are run, however, as occasion requires.

This investment in the Tram Road was regarded by the Trust as a judicious investment, and we allow the Trustees and Managers for the money so expended, as charged in their account.

These mines were represented as very valuable, and the Trust had already received a large amount of tonnage from them before the construction of the road, but it had to be hauled fourteen miles to reach the nearest depot.

In the construction of this road the Trust had in view the development of these mines, and also the extension of the road on to Magog and Sherbrooke, and there make a connection with the road which is to be constructed from Sherbrooke to Halifax, and also with the road which is constructed from Sherbrooke to Quebec, some thirty or forty miles of which is in operation. The result of this extension of the Tram Road was regarded very advantageous to the Trust line in bringing business from the Eastern Provinces. The land grant of 10,000 acres was regarded as very valuable, said land being well timbered and possessing a fine water power. The Trust have had offers to take the land grant and pay for the road.

It was claimed in relation thereto that the construction of said Tram Road and the purchase of said land were improper appropriations of moneys of the Trust, and that the same should not be allowed.

On page 278 of the S., S. & C. Ledger, there is an account against Smith and Clark, which should have been an account against the Trustees and Receivers of the Vermont Central Railroad. It is an account for wood, ties, lumber, &c., while said Clark and Smith were in possession of the road as lessees, and prior to the purchase of the road.

RUTLAND RAILROAD.

On the 30th day of December, 1870, the Trustees and Managers of the Vermont Central and Vermont & Canada Railroads leased the Rutland Railroad with its leased lines, by written lease which is referred to,

and made a part of this report, and marked Exhibit No. 22. This lease commenced January 1, 1871, and the amount of rent paid therefor by the Trust to July 1, 1873, is set forth in yearly payments, in Exhibit No. 18, and amounts in the aggregate to \$1,413,579.54.

This lease was assented to in writing, appended to said lease, by the committee of the First and Second Mortgage Bondholders of the Vermont Central Railroad Company, and by the Board of Directors of the Vermont Central Railroad Company, at a meeting duly called to consider the subject. And approved by the Court of Chancery, as fully appears on page 23 of Exhibit 22, above referred to.

Said lease was further assented to by the Vermont & Canada Railroad Company, at a Directors meeting January 5, 1871, when the following preamble and resolution were passed:

"WHEREAS, The Trustees and Managers of the Vermont Central and Vermont & Canada Railroads, on the 30th day of December, 1870, entered into a contract with the Rutland Railroad Company for the use and control of the Rutland Railroad and the equipments, and other property connected therewith, and also for the use and control of certain other railroads under the control of the Rutland Railroad, and certain property connected therewith, all which is particularly set forth in the contract between said Trustees and Managers and said Rutland Railroad, dated December 30th, 1870, before referred to, and

WHEREAS, Said contract has this day been laid before the Board of Directors of the Vermont & Canada Railroad Company, at a meeting therefor duly called to consider this subject, now, therefore,

Resolved, That the action of said Trustees and Managers in entering into said contract, is hereby approved, and the assent of this Company is hereby given for the approval of the same by order of the Court."

The Board of Directors of the Vermont & Canada Railroad Company for the year 1871, were W. C. Smith, J. Porter, E. Blake, Jed. P. Clark, B. P. Cheney, S. Atherton and J. W. Newton, as appears by Exhibit No. 96.

The Board of Directors of the Vermont Central Railroad Company during the same time, were J. G. Smith, L. Brainerd Jr., G. Merrill, Joseph Clark, J. D. Hatch, J. R. Langdon and W. B. Stevens, as appears by Exhibit No. 103.

Special reference is also made to a resolution passed by the Board of Directors of the Vermont & Canada Railroad Company, Nov. 23, 1873, and marked Exhibit No. 104, and made a part of this report.

bit No. 22 shows not only the lease of the Rutland Road, but her roads operated by the Rutland Road, and the lease of the "Oakes Ames." Also the record of the Court of Chancery and approving said lease. It also shows who joined in the of said contract or lease, and who assented to it on the part of olders. This entire exhibit as printed is referred to and made a s report.

operating expenses of said road, January, 1, 1867 to July 1,	\$2,788,022 09
organization expenses	1,418,579 54
	<hr/>
	\$4,201,601 63
during same time	8,369,815 49
	<hr/>

apparent loss	\$831,786 14
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amount of rent paid on the Rutland Railroad Lease, and its ds for thirteen months ending July 1st, 1873, was \$572,416.62½ by Exhibit 108.

ash receipts of the Rutland Road for the thirteen months next y July 1, 1873, were \$1,007,387.41. The amount paid out by on that road covering the same time, was \$971,360.57, leaving of receipts during that time of \$36,026.84, as appears from a.

payments of rent on the lease of the Rutland Railroad and its s, was made from the general funds of the Trust.

Trustees and Managers at the time the lease of the Rutland taken, considered the rental paid for the road large at the out- illy recognized the fact that loss would ensue in all probability, st few years, but as the term of the period of management for twenty years, it was believed by them that the growth opment of the property during that period, would fully justify aking, and that all losses which might arise for the early period ntract would be more than covered during the whole term, dsome profit result to the Vermont Central and Vermont & oads.

eficiency above stated as loss, \$831,786.14, is not altogether a

ugh the deficiency goes to constitute a portion of the debt of the nd Managers to that extent, yet a large sum should be charged of assets. Precisely to what extent this should be done, can

only be determined by a revaluation and appraisal of all the property embraced in the contract. Large expenditures have been made which are properly assets, and to some extent available to apply toward the rents to be paid.

Lawrence Barnes was present at the negotiation of the lease of the Rutland Road and approved of the contract, but did not join in executing it.

Mr. Willard, counsel for the Orators, objected to the allowance of any charges for moneys paid as rent or otherwise, under or in consequence of what is known as the Rutland lease, except so far as said rent was paid out of the net earnings, income and profit of the roads and property coming into the hands of said Receivers and Managers, by reason of said lease.

It was claimed by Mr. Davenport, that the Receivers should account for the losses resulting to the Trust from the Rutland lease.

OGDENSBURGH & LAKE CHAMPLAIN RAILROAD.

On the 24th day of February, 1870, the Trustees and Managers leased the Ogdensburgh and Lake Champlain Railroad for the term of twenty years from the 1st day of March, 1870; and said lease, and the agreement made the same 24th day of February, 1870, between the Vermont & Canada Railroad Company, and the Trustees and Managers of the Vermont Central and Vermont & Canada Railroad Companies, parties of the first part, and the Northern Railroad of New Hampshire, the Concord Railroad of New Hampshire, the Nashua and Lowell Railroad corporation of New Hampshire and Massachusetts, and the Boston and Lowell Railroad corporation of Massachusetts, respectively, parties of the second part, and referred to, and made a part of this report, and marked No. 23.

The earnings of said road March 1, 1870, to July 1, 1873, were	\$3,370,410 40
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The expenses, including rent, organization expenses and operating expenses were	3,779,102 35
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Loss	\$408,691 95
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The lower roads sustained 24 $\frac{1}{2}$ per cent. of this loss being	101,568 93
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The Trust sustained the balance of said loss, being	307 123 03
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The item of \$25,170.63 being amount paid W. C. Brown and L. Lamb, is included in the operating expenses of the road, as above set down. Said loss was paid from the general fund of the Trust.

The lease covers roads wholly in the State of New York.

The proceedings of the Court of Chancery confirming the lease of Ogdensburgh & Lake Champlain Railroad, March 1, 1870, may be found on page 233 of the printed Volume of Charters, Decrees and Orders, and the same is referred to and made a part of this report.

On the 20th day of October, 1870, the stockholders of the Vermont & Canada Railroad Company met pursuant to published notice, and at that meeting the contract entered into by the committee appointed from the Directors of this company, in conjunction with the Trustees and Managers, for operating and running the Ogdensburgh & Lake Champlain Railroad was then discussed. The following preamble and resolution was read and unanimously passed:

"WHEREAS, On the 11th day of February, 1870, the President of said company and Messrs. Porter and Atherton, Directors, were appointed a committee with full powers to negotiate and conclude, in conjunction with the Trustees and Managers of the Vermont Central and Vermont & Canada Railroads, such contracts and business arrangements as might seem desirable, for the more efficient development of the business of the Vermont Central and the Vermont & Canada Railroads;

AND, WHEREAS, Said Committee have, in conjunction with said Trustees and Managers, entered into a contract for running and operating the Ogdensburgh & Lake Champlain Railroad for a term of twenty years from and after the first day of March, A. D. 1870; now, therefore,

Resolved, That said contract is hereby approved and ratified.

At the time of this meeting, Worthington C. Smith, John Porter, Edward Blake, J. P. Clark, Benjamin P. Cheney, Samuel Atherton and John W. Newton, were Directors of said company. The proceedings of said Stockholders' meeting may be found in full, commencing on page 15 of the Vermont & Canada Stockholders' records.

At the time of making this contract, or lease, of the Ogdensburgh & Lake Champlain Railroad, it was expected by the lessees that there would be some loss to the whole line interested in it. It was thought that there might be a loss the first year to the whole line of \$50,000, and that for the few first years loss would probably ensue to the whole line; but as the term of the period of management extended for twenty years, it was believed that the growth and development of the property, during that period, would fully justify the undertaking, and that all losses which might arise for the early period of the contract would be more than covered during the whole term, and a handsome profit result to the Vermont Central and Vermont & Canada Roads. And this was the

view the lower roads from White River Junction to Boston, forming the line, took on the subject.

The report of the Trustees and Managers, October 2, 1872, at Horticultural Hall, Boston, is referred to, and made a part of the case, and in that report the Trustees and Managers say, touching said lease, "The deficiencies are, by no means, altogether losses, as has been erroneously stated; on the contrary, while the deficiencies go to constitute a portion of the present debt of the Trustees and Managers, a large sum should be charged to account of assets. Precisely to what extent this should be done can only be determined by a revaluation and appraisal of all the property embraced in the contract. Certain it is, that to the extent of the new equipment added, and the large amount of wood and other materials on hand, together with the new stations, and other buildings added to replace old ones burned, or otherwise destroyed, the improved condition of the track, expenditures on the wharf, and terminal property, all these, which constitute a large expenditure, enhancing the value of the property, and are embraced in the current operating expenses of the road, are, in fact, assets, and should not, in any sense, be charged to the account of loss, as, at the final or other sooner determination of the lease the whole property is to be revalued and appraised, and the lessees have the full benefit of the improvement and enhanced valuation.

The orator objected to the allowance of any charges for payment on account of the Ogdensburgh lease, in excess of the net earnings and income of the Ogdensburgh Railroad.

Counsel for Bondholders claimed at the hearing, that the Receivers should be made chargeable for losses resulting to the Trust from the Ogdensburgh lease.

The lease of the Ogdensburgh Road was taken to protect the line of road named in Exhibit No. 23, and the best judgment of those interested in these roads was exercised in relation to it.

It was thought that if the lease of the Ogdensburgh and the Rutland & Burlington Railroads could be effected, it would produce harmony among the roads, and give the line the advantage of what would virtually constitute a double track from Boston to Essex Junction, and from that point a single line west.

The matter of the lease was openly discussed in the papers, and the necessity of bringing these roads into a consolidated form, and thus prevent local jealousies and troubles which disturbed the harmony of the line. The power of the Managers to do this was strongly advocated and urged.

At that time the business of railroads looked prosperous, and was constantly increasing. The revulsion that afterwards followed, and which contributed in part to the depressed condition of the roads, was not anticipated.

If the lease had not been taken the Ogdensburgh Road would have been open to competition to the D. & H. C. Co., and the Portland & Ogdensburgh Roads, which would have materially affected the Trust funds.

Just before the Rutland Road was leased, that road was about to extend their road up the West side of Lake Champlain, and effect a connection at Moore's Junction with the Ogdensburgh Road, and when they had thus completed their road, they intended to make a through line in connection with the Ogdensburgh Road.

At the time of taking the Ogdensburgh lease the Portland & Ogdensburgh Road had nearly effected a contract for the control of the Ogdensburgh Road.

NORTHERN TRANSPORTATION COMPANY.

Articles of agreement between the Northern Transportation Company, of Ohio, a corporation established under the laws of Ohio, party of the first part, J. Gregory Smith, of St. Albans, Vermont, and George Mark, of Nashua, New Hampshire, parties of the second part, and the Trustees and Managers of the Vermont Central and Vermont & Canada Railroad Companies, the Northern Railroad, of New Hampshire, the Concord Railroad Corporation, of New Hampshire, the Nashua & Lowell Railroad Corporation, of New Hampshire and Massachusetts, and the Boston & Lowell Railroad Corporation, of Massachusetts, parties of the third part, and the Ogdensburgh & Lake Champlain Railroad Company, a party of the fourth part, executed on the 24th day of February, 1871, are referred to and made a part of this report, and are marked Exhibit A. 24.

The Northern Transportation Company is a corporation organized under the laws of Ohio, with its office at Cleveland, Ohio. Its business is the owning and operating a line of propellers, to run in connection with lines of railroad named in said contract, from Ogdensburgh to Chicago, and other Lake points—was to form a through line of rail and boats from Boston to the West.

In 1868, the Trust purchased \$50,000 worth of stock of the Northern Transportation Company, and that stock is now on hand.

The trust has never derived any profit from it directly.

The Trust roads, with other roads in the line, helped furnish the money to increase the number of propellers. The Company wanted to raise the number of propellers from thirteen to twenty-two, so as to make a daily line from Ogdensburg, instead of a tri-weekly one.

The line of boats owned by the Northern Transportation Company, were built expressly to run to the line of railroads from Boston to Ogdensburg, and were the only boats adapted to the Welland Canal. Prior to the making of the contract marked Exhibit No. 24, the Northern Transportation Company had failed, and were unable to continue their line of boats.

The boats had become liable to be sold, and parties in Montreal wanted to buy them, and form a line to run through from the West with freight to be exported *via* Allan's Line of Ocean Steamers from Montreal. The freight thus transported would be shipped from Montreal instead of Boston. Parties interested in the line from Boston to Ogdensburg, held a meeting at which Mr. Chamberlin, the President of the Northern Transportation Company was present, and represented to the company the condition of their affairs. The question at this meeting was whether the railroad line should allow the line of boats to pass away from them, and form an opposition line, or whether the railroad line should make an effort to continue the line of boats in their interest.

The Ogdensburgh Road was anxious that the line of railroads should keep up the line of boats, as it added to the value of their road, and proposed to loan to the line of railroads \$600,000, which would relieve the Northern Transportation Company from bankruptcy. It became an important question how the line of roads would make the contribution. It was finally decided that while the roads had no power to purchase the stock of the Northern Transportation Company out of the funds of the roads, yet they had a right to make a business contract with the Northern Transportation Company, by which the line of roads were to agree to take the business of said company, and make a contribution out of the business, which their line of boats would bring to the roads. And the question seemed to be whether the line of roads would hold the business, or let the boats go, and suffer an opposition line to be formed.

The line of roads finally decided to make the contract contained in Exhibit No. 24.

There was a Mortgage of about \$400,000 on the property of the Northern Transportation Company, the payment of which was provided for in the sinking fund. This made about one million of dollars to be provided for by the sinking fund, When this sum was paid, the property

of the Northern Transportation Company would become the property of the line of railroads. When this sinking fund was begun, there were twenty-one or twenty-two boats in the line. Two of these boats have been lost, and one or two burned, which were insured.

Messrs. Pinkerton and Drury, committee of the First and Second Mortgage Bondholders, approved of the transaction, though they did not sign the contract. Said approval may be found on page 252 of the printed volume of Charters, Decrees and Leases. And the petition and decree thereon, approving, ratifying and confirming, the contract with the Northern Transportation Company and others, September 18, 1871, may be found on page 251 of the same volume. And the same is referred to, and made a part of this report.

The boats in the line had not run during the season of 1875, up to the time of the hearing before the Masters.

Under the arrangement between the parties to the Vermont Central line, the Trust pays into the sinking fund 77 $\frac{1}{2}$ per cent., and bears the losses of the line in the same proportion. The investment in the sinking fund, with the deficiency in the earnings of the line, amounted to \$689,843.19, at the close of the receivership July 1, 1873, as appears on Exhibit No. 40.

The payments to the sinking fund were made out of the general fund.

At the time said payments were made there was no excess of net earnings and income of the Vermont & Canada and Vermont Central Railroads, after paying the rent and incidental expenses of the Vermont & Canada, and the interest on the First and Second Mortgages, from which to pay for said purchase of stock.

When the Vermont & Canada Road was built there was no outlet from Ogdensburg West, as only propellers of a given capacity could reach Ogdensburg, in consequence of the Welland Canal, through which large propellers could not pass. The Ogdensburgh Road, seeing the importance and necessity of getting an outlet to the West, contributed \$125,000 to aid in starting a through line of boats. When the line was first formed the boats run weekly, or semi-weekly, but were afterwards run tri-weekly.

The business increased on this line sufficient to justify the formation of a daily line of Steamers, leaving Chicago and Ogdensburg daily, but in order to do this more capital was required than the company possessed, and it was thought advisable for the railroad lines to aid the company.

These propellers were of a limited capacity, and could not carry the amount of freight that their power would justify.

Where a propeller would carry ten to thirteen thousand bushels of corn, the power of that propeller was sufficient, if it had the capacity, to carry fifty to sixty thousand bushels.

Those interested in the railroad line thought it would be an advantage, if they could fit the boats for carrying passengers, and establish a daily line. The matter was fully discussed, and all parties interested agreed that it was for the interest of the line from Ogdensburg to Boston, to aid the Transportation Company and make a daily line. It was proposed to the Trust to make a contribution in proportion to their mileage, by which the Trust would bear about fifty per cent. of the whole amount contributed. They declined to do this, and limited their contribution to \$50,000. The Ogdensburg Road contributed \$50,000. The lower roads contributed a share, and the balance was made up privately. And this contribution of \$50,000 is the stock subscription above named made in 1868. The boat line thus continued along till 1871, when the competitions being very great the company failed.

Whereupon those interested in the railroad line decided to raise money enough to relieve the Transportation Company from its difficulties, and in pursuance thereof, entered into the contract above named, providing for the sinking fund.

By this arrangement the Trust were called upon to appropriate their proportion of the earnings from the business which the boats brought to them, and if in any year the business of the boats was not sufficient to pay the interest on the sinking fund, then no contribution was to be made beyond the actual amount of the business received. The payments to the sinking fund were to be made out of the gross receipts.

The sinking fund now amounts to something over \$200,000, contributed by the Trust and lower roads.

The losses as they now stand consist of the \$200,000, (which is a charge upon the boats,) and the balance is made up of the expenses of operating the boats.

The money is paid into the sinking fund, primarily, by the Lowell Railroad Company, and the other roads account to them.

General Stark and J. G. Smith were appointed Trustees to hold the stock of the Northern Transportation Company for the benefit of all the railroads interested. So that when the sinking fund reaches its maximum, the Trustees will own the boats for the benefit of the line of roads from Ogdensburg to Boston.

The sinking fund is in the custody of the President of the Boston & Lowell Railroad, and the President of the Ogdensburg & Lake

Champlain Railroad. The Presidents of these roads are the trustees. They have the custody, and the investment of it.

The sinking fund was invested thiswise :

The Ogdensburgh Road loaned to the Trustees \$600,000 under the contract, with which to purchase the stock of the Northern Transportation Company. The Ogdensburgh Road issued their bonds to that amount and raised money on them, and, with the money so raised, purchased the stock and property of the Northern Transportation Company. The sinking fund is to retire these bonds, and is invested in these bonds to retire them, or else invested in other securities which will be equal to the bonds, so that if they cannot buy their bonds without paying too high a premium, they invest in Government bonds to hold in place of said bonds issued by the Ogdensburgh Road.

After the contract above referred to, the line of boats was operated by General Stark and J. G. Smith as Trustees for the line.

Exhibit No. 107 shows the amounts with dates of the payments made upon the \$50,000 subscription in said Northern Transportation Company.

Counsel for the bondholders claimed that these investments in the sinking fund, and losses in the line, were unauthorized and illegal, and that the Receivers should be made chargeable therefor.

The Orator objected before the Masters to any allowance for payments for the purchase of stock in the Northern Transportation Company, and claimed that the Receivers and Managers had no right or authority to invest any funds of the Trust in the purchase of said stock. The Orator also objected to any allowance for payments made towards the sinking fund, in connection with the purchase of the boats of the Northern Transportation Company, claiming that the Receivers and Managers had no right or authority to pay any funds of the Trust into said sinking fund.

Mr. Willard, counsel for the Orator, during the progress of the hearing before the Masters, called for a statement of the payments made to the sinking fund, and also of the amounts paid for operating expenses in excess of the receipts.

None were furnished further than appears on Exhibit No. 40.

The Orator further objected to the allowance of any sums charged for payments or contributions out of the funds of the Trust towards the losses or expenses of operating the boats of the Northern Transportation Company, or towards building new boats to be used by said company, claiming that the Receivers and Managers had no right or authority to use the funds of the Trust for that purpose.

THE MISSISQUOI RAILROAD.

On the 28th day of November, 1870, the Missisquoi Railroad Company leased their railroad to the Trustees and Managers of the Vermont Central and Vermont & Canada Railroads, for the term of twenty years. Said railroad is about twenty-eight miles in length, and extends from its point of junction with the Vermont & Canada Railroad, in St. Albans, Vermont, to Richford Village, Vermont.

It is stipulated in said lease, among other things, as follows, viz:

"The parties of the Second part as such Trustees and Managers, and free from personal liability in respect thereto, contract and agree, to furnish rolling stock, and to operate and maintain said railroad twenty years from the time the same, or any part thereof, is completed, and they shall take possession of the same, which they shall do when, at least, one-half thereof is completed, and to keep the same with its depots, switches, side tracks and fences, and its appurtenances, in good order, and condition, at their own expense, and to pay all damages that may accrue in operating said railroad; and for the use of said railroad, with its privileges and appurtenances as aforesaid, the parties of the second part hereby agree to pay out of the gross earnings of said railroad to the Trustees named in the Mortgage which may be executed to secure the five hundred thousand dollars in bonds as aforesaid, for the benefit of the Bondholders under such Mortgage, forty per cent. of the annual gross receipts from the business of said railroad, (an accurate account of which is to be kept by the parties of the second part,) if that amount shall be necessary to meet and pay the accruing interest on said bonds, and if not necessary, then such an amount thereof as may be necessary for that purpose; and if the said forty per cent. of said annual receipts shall at any time during the period of this contract be insufficient to meet and pay the accruing interest on said bonds as it shall become due and payable, the parties of the second part hereby agree to advance and pay out of said gross receipts, such further per cent. over and above said forty per cent., as will, with said forty per cent., be sufficient to meet and pay the interest on said bonds, as it becomes due and payable, and the excess over and above said forty per cent. shall be charged over by the parties of the second part to the parties of the first part, and shall constitute a debt against the parties of the first part, on which simple interest shall be allowed until the adjustment hereinafter mentioned. If the forty per cent. of the annual gross receipts from the business of said railroad shall exceed the amount paid annually by the parties of the second part, to meet and pay the accruing interest on said bonds, as it

shall become due and payable, then the amount of such excess shall be credited to the parties of the first part by the parties of the second part, and simple interest allowed thereon, until the adjustment hereinafter mentioned; and at the termination of this contract the balance shall be struck between such annual charges and credits, and such balance shall be paid by the parties hereto against whom such balance shall be found, and if found against the parties of the first part, it shall be a lien upon the said Missisquoi Railroad, and its fixtures and appurtenances, subject only to the First Mortgage executed to secure the five hundred thousand dollars in bonds aforesaid."

The interest to be paid on said bonds is at the rate of seven per cent. This contract was duly assigned by the Trustees and Managers to the Trustees in said mortgage. And said Trustees and Managers were therein authorized to pay to the Trustees in said mortgage the interest on said bonds as it became due for the benefit of said Bondholders. And said lease or contract is referred to, and made a part of this report, and marked Exhibit No. 25.

And the assignment thereof, and said mortgage is also referred to and made a part of this report, and may be found on pages 422, 423, 424, 425, 426, of the printed Charters, Decrees and Leases.

The petition to the Court of Chancery and decree thereon, authorizing the contract for the equipment and use of the Missisquoi Railroad, September 26, 1870, are referred to and made a part of this report, and may be found in the printed volume of Charters, Decrees and Leases, on pages 235 to 238 inclusive.

J. Gregory Smith was President of said Missisquoi Road from the first till 1874.

The Missisquoi Railroad was located over the line of a plank road which had been in existence many years before the Missisquoi Railroad was constructed, and which had fallen into the hands of the Directors of said Plank Road Company, as owners thereof, by reason of debts which they had assumed for the Plank Road Company. The Directors of said Plank Road Company were Mr. Huntington, Theodore Smith, Mr. Brainerd and J. Gregory Smith.

The last of the debts of the Plank Road Company were assumed by J. Gregory Smith and Lawrence Brainerd. This plank road and franchise was sold to the Missisquoi Railroad Company for \$30,000, and paid for in said First Mortgage Bonds, said Huntington receiving eleven or twelve thousand dollars of said bonds, and said Brainerd and J. Gregory Smith receiving about \$9,000 each, as their proportion.

The money paid out by J. Gregory Smith for the Plank Road Company, and his interest in said plank road, amounted to what he received in bonds without reference to his personal services for said Plank Road Company.

J. Gregory Smith purchased \$20,000 of said railroad bonds at the market price of $77\frac{1}{2}$ per cent.

The Missisquoi Railroad Company were indebted to the Trust in the sum of \$5,672.62, on the 1st day of July, 1873, it being a balance of construction account with said Trust, as appears by Exhibit 62, and papers therewith filed, which are referred to and made a part of this report, and said Missisquoi Railroad Company are unable at the present time to pay said balance against them.

The amount of rent paid by the Trust on the Missisquoi Lease from January 1, 1871, to July 1, 1873, is \$87,500, being \$17,500 semi-annually, as appears by Exhibit No. 18, and this rent has been paid out of the general funds of the Trust.

The earnings of said road for six months to Dec. 1, 1871, were	\$12,980 93
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From Dec. 1, 1871, to June 1, 1872,	15,878 12
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From June 1, 1872, to Dec. 1, 1872,	24,123 89
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From Dec. 1, 1872, to July 1, 1873,	18,568 26
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Making in the aggregate	\$71,551 20
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The operating expenses of said road six months to December 1, 1871, were	\$10,909 09
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From Dec. 1, 1871, to June 1, 1872,	29,369 62
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From June 1, 1872, to Dec. 1, 1872,	29,563 07
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From Dec. 1, 1872, to July 1, 1873,	27,382 71
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Making an aggregate of	\$97,224 49
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as will more fully appear by a summary of the earnings and expenses filed in court by the Receivers, December 30, 1873.

The amount of loss \$25,673.29, added to interest paid on bonds, makes \$113,173.29.

In the construction of this road, the towns along the line of it contributed \$225,000 to \$227,000, and the First Mortgage was \$500,000. These bonds were all sold, and the road was built from the contributions made by the towns, and the proceeds arising from the sale of the bonds.

The town bonds were sold at the rate of 80 cents on the dollar.

Said mortgage bonds were sold at $77\frac{1}{2}$ on the dollar and accruing interest.

Messrs. Harris & Co., the contractors, took the mortgage bonds and the town contributions, for which said Harris & Co. were to stock and build the road.

The mortgage bonds were disposed of to the best advantage in Boston for Messrs. Harris & Co., and from time to time they drew the proceeds.

The Trust furnished material and labor in the construction of said road, which appears in their account above referred to, and numbered 62 of Exhibits. The interest upon said account has not been adjusted.

The Trust received \$24,900 of the town bonds, and the same appears in said account credited at that sum.

These bonds were sold for 80 cents on the dollar by the Trust.

Said Road has been operated by the Receivers since its completion in 1871.

The Receivers and Managers purchased a piece of land of the Missisquoi Railroad Company, for and on behalf of the Vermont & Canada Railroad Company, at the price of \$6,632.20. This was purchased for the storage of wood, &c., which was thought to be necessary for that purpose, but it has never been used by the Trust. The same was charged to the Vermont & Canada Road.

No authority was ever conferred by the bondholders upon the Advisory Committee, at a meeting holden for that purpose, to approve of the contract for the payment of interest on the Missisquoi bonds; nor did Mr. Pinkerton, one of the Advisory Committee, participate in said contract.

It did not appear that said committee ever dissented from said contract, or made any objection thereto, but on the contrary acted upon said contract in fulfilment of their various duties.

Mr. B. P. Cheney had nothing to do with the Missisquoi Road and its construction, or in the guarantee of its bonds; nor did he have anything to do with the sale of said bonds. It did not appear that Lawrence Barnes took any part in making the contract with the Missisquoi Railroad Company. It appears that said Barnes was not elected Manager till March, 1871, about a year and a half after the making of said contract.

The Missisquoi Road extends through a very fertile section of country, furnishing quite a large amount of freight, which would necessarily pass onto the Missisquoi and Clyde Rivers Railroad and the Portland & Ogdensburgh Railroad, but for the construction of the Missisquoi Road, and thus be diverted from the Trust line of roads. To secure this business to the Trust roads was one of the leading objects in the construction of the Missisquoi Railroad.

Mr. Walker claimed that the Receivers ought not to be allowed for the interest, \$87,500, paid on said bonds; nor said loss, \$25,673.29, in operating said road; or the amount of said interest, beyond a fair rent for said road, viz: 40 per cent. of the gross earnings, or, in any event, the interest beyond the gross receipts. Also, that they ought not to be allowed said loss on bonds sold at discount, and ought not to be allowed the balance of the account in favor of the Trust of \$5,635.62, nor the price paid for said tract of land, and claimed, also, that interest should be adjusted, and the account closed.

Mr. Willard, counsel for the Orators, objected to any allowance for payments of interest on the Missisquoi bonds, so-called, except so far as it appears that said payments were made from the net earnings of the Missisquoi Railroad; that the Receivers and Managers had no right or authority to use any of the funds of the Trust to pay said interest.

Mr. Davenport claimed and insisted that the Receivers should be charged for all sums of money taken or paid from the Trust for or on account of the Missisquoi Railroad, its construction, operation, or interest on its bonds.

The National Car Company was chartered by the Legislature of Vermont, in 1868, with a capital stock of \$500,000.

Said act of incorporation may be found on page 109 of the acts of that year.

By an act of the Legislature of Vermont, passed at the session of 1870, said Company was authorized to increase its capital stock to such an amount as might be deemed expedient, provided such increase was sanctioned by two-thirds of the votes of the stockholders of the Company, duly called and held for that purpose: and said act may be found on page 194 of the session laws of 1870.

The Company was organized under the act of incorporation in 1868, with a capital of \$500,000, the shares being \$100 each.

Of this capital, \$250,000 only was paid in. The names of subscribers to this stock, with their residence and amount subscribed, may be found on pages 78 and 79 of the Investigating Committee's Report, and the same are referred to and made a part of this report.

The names of employees of the Trust, who subscribed for stock in said Company, may be found on pages 23 and 24 of the requests, filed by Mr. Davenport, with the amount of stock subscribed by them respectively.

Paid up certificates were issued to parties who received dividends on the full amount of the certificates.

The stock in this company was increased \$500,000 under this act of 1870. Thirty-five thousand dollars of it was issued at \$75.00 per share, 1100 shares were issued at \$100 each, and a further 1100 shares at \$50 each. Two hundred thousand dollars of the said stock was issued at \$80.00 per share.

These stocks have paid a dividend of ten per cent. per annum on the par value.

Prior to the charter and organization of the National Car Company, a patent had been obtained embracing what may be termed the "adjustable axle," by which the wheels could be placed upon the axle so as to accommodate the trucks to the narrow gauge, like the Vermont Central track, or the wide gauge like the Grand Trunk track, and thus enable cars to go through over both lines of road without breaking bulk.

In order to get the through freight from Chicago and other Western points over the Vermont Central line, it was necessary to get up some arrangement by which cars could be taken through without breaking bulk.

The New-York Central, New-York & Erie and Pennsylvania Roads, with their fast freight lines, were in opposition to the Vermont Central line, and competitors for the Western business. Having the same gauge on their entire line, they were enabled to send freight through without transshipment, and on time contracts, which, with some classes of freight, was a great advantage.

At this time the Vermont Central had no through line except so far as they were in connection with the line by water from Ogdensburg to the West, which was closed to them about six months of the year, while navigation was suspended.

The Grand Trunk Railway Company was anxious to establish a through line.

This patent, if it worked well, seemed to present a way out of the difficulties under which the Vermont Central line was laboring, in relation to the through freight, enabling them to form a through line in connection with the Grand Trunk Road.

It was, however, regarded as an experiment, and the officials of the several roads, in the Vermont Central line, held a meeting to see what should be done. They did not think it would prove successful and were unwilling to try the experiment. They *were* willing, however, if anyone would try the experiment, to make a liberal allowance for the use of the cars.

The price of the patent was \$50,000. None of the roads in the Vermont Central Line had any money to invest in the enterprise.

In getting the stock of this company taken, it was said by parties having no connection with the roads in the line, that they would not subscribe for stock unless those having an interest in the roads would subscribe; that they would only risk their money in connection with those having an interest in the roads.

The roads in the line were anxious to get the experiment thoroughly tested. All along the line from Chicago to Boston, the managers of the several roads came forward and took stock, and also some of the security holders of the Trust roads.

The National Car Company was organized and having purchased the patent, built 200 cars and put them into service. They proved more successful than had been expected.

The stock was put in at less than par value, on account of the perishable nature of the property forming the base of the stock.

It is difficult to determine the exact life of a car, much depending on the service it is put to, but from all the evidence upon this point, we find the life of a car, over the line of road on which these cars were used, would be about seven years, as they were used by the Trust.

The contract between said Car Company and the several railroad corporations in the line, dated the 25th day of February, A. D. 1869, with the additional articles of agreement between the same parties, dated on the 15th day of October, 1870, is referred to and marked Exhibit No. 85.

The price paid by the several railroad companies for the use of the cars built by said Car Company, up to the 15th day of October, 1870, was three cents per mile run. From the 15th day of October, 1870, to January, 1873, two and one-half cents per mile run; after that, to July 1st, 1873, two cents per mile, and since then, one and one-half cents per mile.

The Trust paid said Car Company for the use of their cars from March 1st, 1869, to July 1st, 1873, \$351,034.79 as appears by Exhibit No. 94.

The Vermont Iron and Car Company was incorporated by the Legislature of Vermont at its October session, 1870, with a capital of \$500,000, divided into shares of \$100 each, with the right to increase the capital stock to a sum not exceeding \$1,000,000; provided such increase is sanctioned by two-thirds of the stockholders voting at any meeting duly called and held for that purpose.

The corporation was organized March 4th, 1871.

The Stockholders of this company, with their places of residence and the sum subscribed by them respectively, may be found on page 111 of the investigating committee's report.

The capital stock was afterwards increased to \$1,000,000.

Fifty per cent. of the capital stock was paid in and certificates issued to the Stockholders at the par value, for the same reasons stated in relation to the National Car Company.

The names of persons who subscribed for stock in the Vermont Iron and Car Company, and who were employees of the Trust, with the amount subscribed by them, may be found on pages 24 and 25 of the requests by Mr. Davenport.

The Trust, exclusive of collections from other roads, paid to said Car Company from May, 1871, to July 1st, 1873, \$205,131.61.

The contract between the Trust and the Vermont Iron and Car Company is referred to and made a part of this report, and marked Exhibit No. 78.

The cars of the Vermont Iron and Car Company were built at the shops of the Trust for said Vermont Iron and Car Company, the Trust receiving a fair compensation therefor.

The cars of both Car Companies have been repaired at the shops of the Trust, said companies paying therefor a fair compensation.

The same price was charged by the Vermont Iron and Car Company for the use of their cars, as was paid to the National Car Company after the Vermont Iron and Car Company commenced renting its cars.

The stock of both companies has paid annual dividends of ten per cent. on its par value.

The subscriptions to the stock were made with a view to help the roads to the necessary rolling stock to build up the line.

The car with an adjustable axle was something more expensive in its construction than the ordinary car, and was more liable to get out of repair than the ordinary car.

Wheels would sometimes slip upon the axles and thus cause damage, and especially so after they had been in wear for a while.

The National cars were made with particular reference to the Western business, and the wheels of these cars were required to be of broader tread to accommodate some of the Western roads, whose track was a trifle wider than the track of the Trust roads; the broad tread being especially necessary in some of the Western yards, where there were sharp curves, to prevent the car getting off the track.

At first, these cars seemed to be successful beyond what had been

anticipated, but as they became worn, accidents began to occur by reason of their peculiar structure; and the Grand Trunk Road claiming that they were paying too high rent, and being desirous to have the trucks so arranged as to run wholly on a narrow gauge, purchased 500 of said cars for the price of \$535,000.

They then abandoned the adjustable axle and had two sets of trucks, one for the broad gauge and one for the narrow gauge; adjusting these trucks for the broad or narrow gauge as required, under the car, by certain Machinery at Sarnia and Montreal, by which the car was elevated and the trucks transferred.

In the arrangement touching the sale of these 500 cars, it was agreed that the Car Company should do away with the changeable gauge cars and build new cars.

The company then went to quite a large expense in changing the remainder of the wheels of over 200 cars and finished them up as narrow gauge cars.

It was claimed by counsel for bondholders before the Masters, that this through Western business was not remunerative, and that the Trust ought to have abandoned it.

The question has been mooted by the roads in the line, whether they should give up this through business and let all this traffic be diverted into other channels, or whether they should struggle on through this period of depression, awaiting a revival of business. There are certain classes of business which if thrown up would get diverted and scattered among other lines, so that it would be very difficult to again form a connection and regain the business.

At all events, the Managers of the different roads in the line have thought it the wisest course to keep up the line and retain the traffic, and to that end have labored diligently.

The prices for freights coming east on the through line, are established in Chicago, by parties there, and it is optional with the line whether they will take the freight or leave it, at the prices there fixed.

The rates on freights from the West have been very much discussed between the Managers of the different through lines, and in all cases the managers of the through line in which the Trust is interested have got the highest rates they were able to obtain.

The stock in these companies consists of the cars, which necessarily pays a better dividend at first than after they become essentially worn.

For details of the contracts between these Car Companies and the Trust, Exhibits Nos. 78 and 85 may be referred to.

It is regarded by some as better policy for a road to own its cars and this is doubtless true, provided they have the funds to suitably stock their road.

In this instance the Trust had no funds with which to purchase cars, and the Managers did not feel at liberty to borrow, and thereby place another equipment loan upon the road.

The Vermont Iron and Car Company originated in this way.

The lumbermen of Ottawa were anxious to get their lumber to our markets, without its going through the hands of "middle men" at Burlington and elsewhere.

The Ottawa Railroad, at this time, did not extend up to the mills, but was five miles from them. Mr. Reynolds, President of that road, invited a conference with the Managers of the Trust and the lumbermen of Ottawa, to see what could be done. In pursuance of this invitation, the First Mortgage Bondholder's committee, and the board of management of the Trust, went to Ottawa to look over the matter.

A long interview was had with the lumbermen, who were very desirous that the line should be equipped and a certain number of cars furnished suitable for their business.

The length of the cars of the Trust was, at that time, 28 feet; the lumbermen wanted longer cars than that, namely, 33 feet cars; giving, as a reason, that they could then ship two lengths of their 16 feet lumber in a car of that length, and thus get a car load into a car, whereas, they could not ship a full car load in the 28 feet cars.

Mr. Reynolds offered that if the Vermont Central would equip the line, he would build his road up to the mills; that is, the five miles between the Ottawa Railroad and the mills. The lumbermen would not be satisfied with less than 300 cars.

After returning from Ottawa, the Board of Management discussed the question how they should raise the money to build the required cars.

The committee of Bondholders were unwilling to recommend another equipment loan to the public, and proposed that another company should be organized similar to the National Car Company, and that car service at 2½ cents per mile should be paid.

Thereupon, the Vermont Iron and Car Company was organized, and the stock subscribed for as above detailed.

There is more freight from the West eastward than from the East westward, consequently about one-half the cars of the through line returned westward empty.

They did such local business going West as was required along the

line, and rates on this business were fixed by Mr. Millis, agent of the Trust, in connection with the managers of other roads in the line.

They also did such through business, going westward, as they could get, and frequently at a low rate, for the sake of getting the business, as very little additional expense accrued in taking on such freights.

It is regarded as economy to run cars partly loaded rather than empty, for the reason that the car runs steadier upon the track.

The Vermont Iron and Car Company's cars were built with special reference to the lumber trade, but, by reason of the very general depression in business which followed, the lumber business suffered very severely, and became very essentially reduced in amount: and these cars, in a great measure, while new, were used in the grain business from the West, keeping along, however, with the lumber business, as required.

The ordinary repairs of all the cars were made by the Car Companies. For the particulars in relation to this, the contracts between the Companies and the Trust are referred to.

The Trust purchased all or nearly all the wheels for these cars of the Foundry Company, at St. Albans, charging the Car Companies the same price they paid the Foundry Company.

Very much the larger portion of the car service of these cars was collected by the Trust and paid over to the Car Companies, the Trust, in some instances, making a profit on the cars; for instance: The lower roads, not in the line, paid the Trust for car service on a tonnage basis, while the Trust paid the Car Companies on a mileage basis, thus making a profit to the Trust of \$800 to \$1000 per year.

After a while the two Car Companies became consolidated into one company.

The Vermont Central Line or Trust pays about one-seventh of the car service on the through line from Boston to Chicago, that being their proportion of mileage.

These cars ran over various roads outside the through line, for the service of which the Car Company charges the same mileage as that paid by the through line, except in one instance, of small amount.

In the year ending 1868, the entire business in connection with the Grand Trunk Railway to the West, amounted to 18,794 tons. In 1869, after a certain number of the National Cars got to running, it was 37,052 tons. In 1870, the tonnage was 99,909 tons; in 1871, 145,666 tons; in 1872, 159,019 tons; in 1873, which was the year of the panic, the business fell to 128,726 tons.

For the next four months, that is, from December to March, there was a large increase, and for that time the amount was 76,298 tons.

The average amount of earnings for the roads in the line of the Trust solely, not including the lower roads, was \$2.44 per ton, or a total of \$1,623,732.16, covering the period from 1869 to 1873 inclusive, and a part of 1874.

The average car service amounted to \$3,549.72 per month for the 60 months the cars had run up to that date; total \$212,983.20. That includes the total amount of car service paid on all the roads in the Trust.

The increase of business was due to the establishment of the through line.

No greater number of cars has been in use on the Trust roads than was required to do the business properly.

We think the establishment of the through all rail line from Boston to Chicago, was calculated to enhance the interests of the Trust; and in order to accomplish this, it is apparent that a very large outlay for rolling stock was necessary, which could not well, at that time, have been furnished by the Trust.

The mode adopted in furnishing the rolling stock, in our judgment, was far preferable to the issuing of another equipment loan.

The circumstances under which the Vermont Iron and Car Company was organized, would seem to justify the end.

Considering the hazardous character of the enterprise, and the perishable nature of the base of the stock in these car companies, the dividends received by the stockholders is no more than a fair equivalent for the advancement.

In 1854, J. G. and W. C. Smith were the owners of the Foundry at St. Albans, and were then operating the same as such owners. On the 17th day of November, of that year, they entered into a contract with Wm. Raymond Lee, a committee of the bondholders, to furnish car wheels and castings for the Vermont Central Railroad Company, for the term of five years. For the particulars of said contract, the same is referred to and made a part of this report, and marked Exhibit 30, together with a request thereon to the Vermont and Canada Railroad Company, signed by the said W. Raymond Lee, and also by John S. Eldridge, as Trustees First Mortgage Bonds, Vermont Central R. R., under date of Sept. 4, 1855, and is as follows :

"The within contract, together with the sum which may hereafter be found due on the same on settlement by W. R. Lee, Esq., and the Messrs. Smith, constitute a liability to be allowed by the Vermont & Canada Railroad Company, and we do hereby request the Vermont &

"Canada Company to assume and execute said contract according to its terms and pay the amount that may be found due on settlement as aforesaid. Sept. 4, 1855.

"Wm. RAYMOND LEE, } Trustees 1st Mortgage Bonds Vt. C.
 "JOHN S. ELDREDGE, } R. R. Co."

On the 27th day of November, 1858, the said J. G. Smith having been appointed one of the Trustees of said railroad, assigned all his interest in said contract to the said W. C. Smith for the sum of \$3,000, paid him therefor by the said W. C. Smith.

On the 1st day of September, 1860, the said J. G. Smith and W. C. Smith leased said Foundry to George J. Stannard and Edward A. Smith, which lease is referred to and made a part of this report and may be found on pages 25 to 31 inclusive, in the appendix to investigating committees' report. This lease expired Sept. 1, 1863, when George J. Stannard went out of the business and was succeeded by J. W. Newton, and since then the business has been carried on by the said Edward A. Smith and J. W. Newton.

Since 1854 the greater portion of the wheels used on the Trust roads has been supplied at that Foundry, together with large quantities of castings for machinery and other purposes.

It was claimed on the part of counsel for the bondholders, and the Vermont & Canada Road, that the Trust had paid too high a price for the work furnished at the Foundry.

The contract for wheels and castings was made by the committee with the Foundry Company, and from time to time revised by the committee.

In April, 1862, Mr. Drury, one of the committee of Bondholders, filed objections to the price before the former Masters, and some action was had thereon.

From time to time the question of prices for castings and wheels came up before the committee, and investigations in relation to the prices, at which other Foundries furnished material of a similar character, were had. And at the time the contract was made the committee had notes before them from Foundries and Machine Shops relating to the prices of such work.

After the objections were filed, some revision was made in the prices and Mr. Drury thereafter assented to them.

The committee of Bondholders had full knowledge of the accounts with the Foundry, and examined them when auditing the accounts of the Managers.

The committee of Bondholders knew that there was some arrangement between W. C. Smith and the Foundry Company, by which the Foundry Company were paying a certain sum on car wheels and castings to W. C. Smith, which were furnished to the Trust.

In 1867, the committee of bondholders investigated the prices, when Mr. Taylor and Mr. Andrews were on the committee. Mr. Taylor consulted with a Foundry Company in Philadelphia. A correspondence was also had with people in Springfield and Troy, and other places where such business was done, and the result was, a revision of prices at the Foundry at St. Albans.

The conclusion the bondholders came to was, that they could afford to pay something higher at St. Albans than was charged at other points, because there would be no freight to pay; and another reason was that the Foundry was near by, which was considered a great advantage in case of breakages, or in case of any emergency.

The prices were revised chiefly by Mr. Taylor, who was a thorough business man, and acquainted with that department.

Mr. James M. Foss succeeded Mr. Perkins as Master Mechanic, and when he first came upon the road, Mr. Taylor gave him instructions in regard to the wheels and castings, and informed him that he had made a bargain with the St. Albans Foundry Company to furnish them, and gave him the prices.

The wheels broke badly in the winter of 1867 and 1868, and caused a good deal of trouble along the whole line. A meeting was held at St. Albans to take action upon the matter. It was then insisted by the committee that they must get a wheel that would stand better, and the question then came up whether the wheels should not be made of all new iron.

Taking into consideration the freight on the wheels made elsewhere, and the extra price for having them made of all new iron, it was decided at the meeting to have the wheels made at the Foundry at St. Albans.

There seemed to be a general complaint that winter of wheels failing, but the Trust roads seemed to suffer more than others.

At this time Mr. B. P. Cheney, acting for the Trust, made inquiry about wheels at Concord, Worcester, the Whitney Wheel Company at Philadelphia, at Troy and Malone, but found none that were making wheels wholly of new iron.

Mr. Cheney made these investigations with a view to the meeting above named, when he understood the matter was to come up.

In 1868, wheels were ordered to be made of new Salisbury Iron, at

an agreed additional price of \$2.50 per wheel, on account of the use of that kind of iron which is regarded the best, and most expensive iron for that use. This iron is superior in quality and is used largely by the Government in gun work, and for other purposes, where a very good quality of iron is essential.

In the lease from J. G. Smith and W. C. Smith, to Edward A. Smith and George J. Stannard, it is among other things, stipulated that :

"The said parties of the second part are to manufacture promptly, and in a workmanlike manner for the parties of the first part, all the railroad work that may from time to time be ordered ; and at all times to keep on hand a sufficient amount of stock and help to do said work without delay, and to give the orders for said work, at all times, a priority and preference over other work ; and to allow said parties of the first part one-half cent per pound on all work done for said railroad, except on wheels, and to allow said parties of the first part on each wheel manufactured, as follows : On each thirty-three inch wheel the sum of three dollars ; on each thirty inch wheel the sum of two dollars and fifty cents, and on each twenty-eight inch wheel the sum of two dollars."

In this contract or lease the said J. G. Smith had no interest whatever, except as to the rent of the real estate, and joined in the lease solely on account of his being part owner of the real estate.

There was subsequently a modification of the terms of the lease with the Foundry Company, by which the amount the said W. C. Smith was to receive on castings and car wheels furnished the Trust was reduced.

The assignment above named, marked Exhibit No. 31, is as follows:

"In consideration of three thousand dollars, received to my satisfaction of Worthington C. Smith, of St. Albans, I hereby assign and transfer to him all my interest in and to a certain contract between J. G. and W. C. Smith, and the Trustees of the First Mortgage Bonds of Vermont Central Road, dated Nov. 17, 1854, together with all my interest in and to all claims arising under said contract, against said Trustees.

"St. Albans, Nov. 27, 1858. .

J. G. SMITH."

After this assignment the said J. G. Smith had no interest whatever in the Foundry, except as part owner of the real estate ; nor has he since had any interest in any of the accounts of said Foundry Company, directly or indirectly.

Worthington C. Smith continued to supply the Trust with all needed car wheels and castings until the five years named in the contract of Nov. 17, 1854, expired, and after that until the contract of Sept. 1, 1860, (being the lease to Edward A. Smith and George J. Stannard,) was entered into.

Since then car wheels and castings were supplied the Trust by Edward A. Smith and George J. Stannard, till said Stannard left the business, and after that by the said Edward A. Smith and J. W. Newton.

There was no written contract between the Trust and Worthington C. Smith, while he delivered car wheels on his own account, after the contract of November 17, 1854, expired, but his custom was to render his bills monthly, and they were paid. These bills were passed in to Mr. Perkins, Master Mechanic, and approved by him, and then passed to the General Superintendent's office, and approved by him. The matter touching the price of car wheels was discussed with Mr. Perkins, the Master Mechanic, several times, and he sent to other roads for information as to the price of car wheels.

At one time Mr. Perkins refused to use the wheels under passenger coaches, on account of their quality, and purchased some wheels at Troy, N. Y., and Springfield and Worcester, Mass.

The Foundry Company began to cast wheels of the Salisbury iron in 1867, and the Trust about this time began to use them under passenger cars and locomotives.

A difference arose between Mr. Perkins and W. C. Smith, and the matter was referred to the board of management, and they established the price to be paid, which was a little less than the price claimed.

While Mr. Taylor was one of the board he made a thorough investigation in relation to the prices with Mr. Perkins, and also with Mr. Drury, who was one of the committee. He then had a conference with the Foundry Company, and agreed upon a price. The result of the investigation by Mr. Taylor was a change in the prices.

Examinations in relation to the prices were made as often as once a year, and sometimes oftener.

J. G. Smith took no part in fixing the prices of the wheels after he became a member of the Trust.

Of the wheels purchased of the Foundry Company by the Trust, a large amount of them was sold by the Trust to the Car Companies at the same price paid to the Foundry Company. Quite an amount of these were of the broad tread and heavier than the ordinary wheel, and to that extent were more expensive. The amount sold the Car Companies aggregates \$204,573.15.

Exhibit No. 99 is a statement of prices paid for wheels and castings by the Trustees and Managers, and by the Troy & Boston Railroad, 1862 to 1873, and the same is referred to and made a part of this report.

Exhibit No. 100 is a statement of old wheels and old scrap, sold by

the Trustees and Managers to other parties than the St. Albans Foundry Company, from 1862 to 1873, with prices received for the same, and the same is referred to and made a part of this report.

By reason of the Foundry Company's supplying the Trust with their wheels and castings, instead of their being furnished by other Foundries off the line of road a very large amount of material is freighted over the Trust roads to the Foundry at St. Albans, which is an essential benefit to the Trust in its carrying business, and this fact has always been prominent with the Trust in dealing with the Foundry Company.

The Foundry Company has always paid local, uniform, regular rates, with the exception of some special things, and upon these they paid as the public did.

To comply with the obligations required by the contract with the Trust, a very considerable outlay of capital was necessary, not only in the buildings of the Foundry, but in the machinery, fixtures and patterns required in doing the work for the road.

The business was somewhat more onerous to the Foundry Company by reason of the fact that the Trust roads had a greater variety of machinery, locomotives and cars than roads usually have. Their engines were purchased at many different places,—Taunton, So. Boston, Manchester, Philadelphia, Schenectady and other places, necessitating the keeping of a large stock of patterns on hand by the Foundry Company for their repairs.

It was the same with their cars, which until they commenced building them at St. Albans, were constructed at different shops in the country, of which each had its peculiar pattern and mode of construction, so that it was necessary to keep on hand a large stock of different patterns for the purposes of repairs.

To a considerable extent the Trust furnished its own patterns, but often times the Foundry Company had to alter them, and a great variety of tools and material had to be kept on hand, which, to some extent, enhanced the expense.

The railroad always had a preference in supplying their work which frequently necessitated the running of the shops in the night, especially in the winter season, when break-downs occurred upon the roads, castings on such occasions being wanted in great haste, and such castings were supplied promptly, and frequently at an extra expense.

The auditing committee examined the vouchers of the payments to the Foundry Company carefully, from time to time, and they were allowed by them.

Troy, N. Y., is quite a manufacturing center for iron work, both in railroad material and other castings, several Foundries being in operation there, and it also has very good facilities for procuring iron, coal and sand, cheap. Between the Foundries at Troy and Albany there was considerable rivalry which had to do with the price of car wheels.

The Boston & Albany Road did a large amount of business at Troy in the traffic of railroad material, and that business is placed in just a position with the same class of business done by the Trust with the Foundry Company, on Exhibit No. 99, which is referred to.

The highest price which the Trust has been able to obtain for old car wheels delivered at Worcester, Mass., is \$2.20 per hundred.

If the Trust had done their business at Troy, instead of doing it at the foundry at St. Albans, it would have necessitated an additional expense in transporting new castings from Troy, and the old castings to Troy.

By having the work done at St. Albans under the terms of the contract, something has been saved to the Trust by way of interest upon the stock which otherwise the road would have had to carry through the winter season.

They would have been compelled to carry a very considerable stock of wheels and castings at all times, to meet the variety of patterns of their cars and engines, or else sustain a loss of the use of the power, by delay in obtaining the material. These considerations have always had an influence with the Board of Management, in determining the course to be pursued by them.

Since the wheels have been made of the new Salisbury Iron, they have proved very good and servicable.

Before the Salisbury Iron was used, some change was made in the casting of wheels at the Foundry, by direction of Mr. Perkins, which did not work well, and by reason of which the wheels did not wear the usual time.

The warranty of the wheels was for one year, as is the usual custom upon all roads, but the Foundry Company have not been particular in regard to the time guaranteed; if a wheel has been broken, the custom of the Foundry Company has been to replace it at any time, unless it was an unreasonable length of time.

At the time of the lease of the Foundry to Edward A. Smith and George J. Stannard, W. C. Smith had a contract with the railroad company to furnish them wheels and castings, and made an arrangement with said Smith and Stannard, as a compensation for the good will and

the business which they received from him, and as a compensation for capital furnished by the said W. C. Smith to them, and also as a compensation for the said W. C. Smith's agreement to endorse their paper, by which they were to pay the said Smith a certain amount per wheel, and a certain amount per pound on all the castings they furnished the railroad.

The price paid by the Trust did not affect him. He did not intend to be a partner at all in the business of the Foundry, or to be made liable in any way in respect thereof, or to have any participation in the profits of the joint business of the Foundry Company.

The amount paid to W. C. Smith by the Foundry Company was not affected in any way by the price paid by the Trust.

The transaction between W. C. Smith and the Foundry Company was a matter of confidence and agreement between the said Smith and those operating the Foundry.

In relation to castings, other than wheels, the difference in the cost of making the general working machinery for locomotive and car use and the road work is very considerable. The Trust used no cast iron chairs and no cast iron frogs on their roads. The road work, especially the chairs, embraces the cheapest kind of castings, both as to the quality of the work and the material of, which it is made, while the locomotive castings which were made at the Foundry were made of a higher priced iron and were cast perfectly smooth, and made in what is called dust facing, and ground after they came out, so that they were not only smooth, but ready for use.

If common castings were included with locomotive castings, the price would be very considerably reduced, so that, in fixing the price, *very* much will depend upon the kind of castings, and in making comparisons the same quality and kind of castings should be had in view.

The locomotive and car castings at the Foundry were finished up in a superior manner.

The payments by the Receivers and Managers for car wheels and castings are allowed as they were made by them.

Voucher 4,003, March 3d, 1863, L. Brainerd, for \$3,985.87.

This voucher purports to have been drawn and paid in pursuance of an order of the Court of Chancery, and the payment is allowed.

A meeting of the stock and bondholders of the Vermont Central and Vermont & Canada Railroads was held in Horticultural Hall, in Boston, on the 2d day of October, 1872, to hear the report of the Trustees and Managers of the line, in regard to its then present financial condition.

Reports had been in circulation, adverse to the management of the Trust property, and the Trustees and Managers, under the peculiar condition of the Vermont Central and Vermont & Canada Railroads, thought it wise and proper to ask their security holders to meet the Trustees and hear from them a report in regard to the charges which had been widely made against them.

Certain expenses arose in calling and holding that meeting, which were reasonable in their amount, but were objected to for the reason that the Trust ought not to have been charged with them. These expenses were for the use of Horticultural Hall, sundry advertising bills, also for report of Horticultural Hall meeting, and map accompanying the same.

The items are allowed as charged.

An item for \$105, being expenses at the Welden House for refreshments when the bondholders made an excursion to examine the Stanstead, Shefford & Chambly Road, with a view to its purchase, was objected to, but is allowed as charged.

In relation to D. C. Linsley's account, mentioned on the 23d page of Messrs. Simmon's and Walker's requests, it appeared that at the time of building the depot at St. Albans, which Mr. Linsley superintended, the Trust, from time to time, let Mr. Linsley have money to carry on the work, and tooks his receipts therefor. The amount was some ten or twelve thousand dollars.

His custom was to bring in vouchers for what he had expended, and there was a balance against him of \$2,413.79.

There was quite a large number of the receipts, and Mr. Williams, Treasurer, passed them all over to Mr. Thorndike, with a statement of the account against Mr. Linsley, showing the amount due from him to the Trust.

Voucher 7,471, October 26, 1867, is an order of John W. Newton, to Mr. Williams, Treasurer of the Trust, to pay George Hunt \$500, and charge the same to the Vermont & Canada Railroad. It did not appear what this order was drawn for.

Mr. Davenport, counsel for Bondholders, objected to the allowance of this payment on the ground that there was no evidence to show what the amount was expended for. This item having been regularly placed in the account and allowed by the Auditing Committee with other accounts, in the absence of proof outside the order, we infer it was a proper charge and allow the same.

Voucher 4,489, signed by L. Millis, is for the amount of \$469.25, portion of account rendered and approved by B. & L. R. R. and National

Steamship Company. No evidence was given in relation to the voucher outside of the voucher itself.

Mr. Gyles Merrill's attention was called to the voucher while he was a witness upon the stand. Mr. Davenport, counsel for Bondholders, asked the witness what it was for. Mr. Merrill replied that he did not know, but that Gov. Smith could explain it.

No further objection was made to the voucher during the putting in of the evidence, and no further testimony taken upon the subject.

The objection appearing in the requests of Messrs. Simons and Walker, drawn up after the hearing was closed.

We allow the payment as made, the accounts embracing the item having been allowed by the Auditing Committee.

Voucher 7,233 for \$102.83 paid by Mr. Williams, Treasurer, stands upon the same ground as the last preceding item, and is allowed for the same reason.

Voucher 4,613 is as follows :

" Boston, January 5th, 1866.

Pay to the order of John S. Eldredge, \$1,500, and charge to the account of Trustees and Managers.

(Signed)

J. G. SMITH,

State St., Boston.

"

L. MILLIS."

This order was paid by the Treasurer, and charged over to said Eldredge, and remained so charged on the books for a while, and then passed to the suspense account.

Mr. Merrill, Treasurer, tried several times to get a voucher from Mr. Eldredge, stating the consideration of the payment of the \$1,500, but failed to get it. The Trust used some property of said Eldredge at Northfield, Vermont, as a saw mill, which was consumed by fire, while so used, but whether this payment was in settlement of that loss, did not appear.

The item is allowed as charged in the Receiver's account.

Voucher 2,782 is for \$482, and is for expenses of Mr. Fletcher and Mr. Corley, in making appraisals of the propellers of the Northern Transportation Company.

No objection was made to this item at the hearing, and the same is allowed as charged, no evidence outside the voucher having been offered before us.

Voucher 2,657, \$150, is for services in attending the Legislature in N. Y., in the matter of Leased Roads.

No evidence was given touching this voucher or the next preceding voucher, outside of the voucher itself. The same is allowed as charged.

The Trust held a note against the Welden Hotel Company for \$527.22, given in settlement of an account. They also have an account against the same company of \$112.09. Said note and account have been turned over by the Trustees and Managers to the Central Vermont Company.

These demands are worthless, and it was claimed by the counsel for the bondholders that the Trustees and Managers ought to be charged with them.

They accrued in the ordinary course of business and without fault on the part of the Trustees and Managers, and they ought not to be charged with them.

Voucher 7,618 for \$1,500, dated September 25, 1864, is as follows:

"Trustees of 1st Mortgage Bonds, &c., to Joseph Clark and J. G. Smith, *Dr.* Sept. 25th, 1864. For amount of settlement made for use of land occupied by the Vermont Central Railroad in Burlington, on old line, from 1859 to date: being a land claim made by Hart, Leslie and Warren of Troy: which case was tried in Chittenden County Court, and decided at the last term of Chittenden Supreme Court. Said land was never appraised, but was taken by the Company without appraisal and used until now—15 years—\$1500.

(Signed,)

JOSEPH CLARK,

JOHN GREGORY SMITH."

There was a piece of land on Champlain and Water street, fronting on Main street, in Burlington, containing about one acre, which was in controversy between Hart, Leslie & Warren and the Farmers' and Mechanics' Bank, growing out of a conveyance on a title coming from one Rathbone.

The Farmers' and Mechanics' Bank was in possession of this land, which was then used by the railroad, and that being the Bank which aided the railroad the matter lay along. The suit terminated in favor of Hart, Leslie & Warren, who made a claim upon the Receivers for the use of the land to the amount of several thousand dollars.

The Receivers instructed Levi Underwood to act for them, and in pursuance of such instructions, said Underwood met said Leslie, and settled the matter at \$4000, at which price the Receivers were to become owners.

Said Underwood purchased the land of the Receivers at \$2500. Said \$2500 and the \$1500 named in the voucher, paid said Hart, Leslie & Warren, the price for the land and its use by the railroad, and the item is allowed as charged.

B. B. Smalley was employed by the Trust as traveling agent over the line from Montreal to New York, from August or September, 1860, to 1863, at a salary of \$1000 per year. His duties were to look up the passenger business from Montreal to New York, chiefly in New York. He looked after the transportation of soldiers, after the war commenced, and settled their transportation account in New York with the Government.

The account is allowed as charged under objection by counsel for Bondholders.

Said B. B. Smalley had the care of some \$10,000 in money and loaned the same to the Trust at 9 per cent. interest. A portion of this was afterwards paid, reducing the amount to \$6,800, where it has since remained.

The Trust were in need of the money and could not get it of said Smalley for a less rate of interest, and the Receivers ought not to be charged with the extra interest paid said Smalley.

J. D. Hatch has been employed by the Trust since 1857, as General Agent, for a few years at first, at \$1,000 per year, then \$1,500 per year, and still later, \$2,000 per year.

We think the price paid for the services of said Hatch reasonable, and allow the charge made for such services.

Said Hatch's duties were to look out for the interests of the Trust, settle damages, adjust claims and look up testimony, and to do such other work for the Trust as he was called upon to do.

He attended the sessions of the Legislature regularly as their agent, to look after matters that came before the Legislature, examine bills, and find out what was going on that affected the interests of the Trust, and from time to time to report to them the condition of affairs at the Legislature, and to consult with the attorneys of the Trust.

The manner in which the committee of Bondholders have discharged their duties in auditing the accounts of the Trust appears from their report as follows:

"The committee chosen by the Bondholders February 18, 1865, under Decree of the Court, to inspect from time to time, during the year, the accounts of the Trustees and Receivers and audit them, and generally to advise with the Trustees in regard to the policy and management of the railroads and property in their hands, beg leave respectfully to report: Prior to the Decree of January 19, 1864, which settled all questions of controversy between the different parties in interest, the Court appointed Masters to examine and audit the accounts of the

Trustees and Receivers, and to report thereon to the Court. But by the Decree mentioned, the First Mortgage Bondholders, the party next interested after the Vermont & Canada R. R. Co. had the right, through the committee representing them, to attend to this duty and watch the just expenditures and appropriations of the earnings. In a word this ward of chancery, in its own opinion, as well as in that of the Court, had come to such strength and years as to be able to do without 'Masters.' The committee accordingly commenced their labors at that point where the Masters had ceased theirs, the last reports of the latter to the Court on file having brought the examination down to July 1, 1861, a period of three years and five months, and they take pleasure in saying that the system of keeping the accounts at the office is admirable. Checks are used which would seem to preclude mistake or collusion, both in the receipt and disbursement of money, a matter of great moment in the handling of between one and two millions of dollars by the management annually.

Not one of the Trustees touches the money as it comes in and goes out of the treasury. It all passes through the hands of Mr. G. Merrill, the Superintendent, in whom the Trustees place, and as your committee believe, most deservedly, entire confidence.

An able and skilful accountant keeps the books, charging all cash received, and crediting all paid out. No money, not even the smallest amount, is paid out without a voucher, which has first to be approved by the head of each department, and afterwards by Mr. Merrill. Every voucher is numbered, and the number, with the record of payment, entered in the cash book. So that it is always easy to find any payment, and judge of its character. The number of vouchers examined by the committee was over six thousand."

And in said report a statement of the account is made and a settlement of the accounts of the Trustees from 1861, down to Dec. 1, 1864, in conformity with the Decree of 1864, and the agreement upon which it was based.

Included in the statement of the account and settlement, is the balance found by the last report of the Masters, July 1, 1861, \$29,416.37 to which is added various other items, together with the gross earnings of the road to Dec., 1864. The committee then credit the Trust with the liabilities of the Receivers, and expenses of operating the road up to that date, with the inventory of the property on hand, amount paid the Vermont & Canada Road for rents, and for the construction of the Bur-

lington and Swanton branches. The two sides of the account being thus balanced at \$4,113,418.72.

The books of the Trust have, since said report was made, been kept in very much the same manner as indicated in said report, and the management, so far as relates to the accounts, receipts and disbursements of the monies of the Trust, has been the same as stated in said report.

The manner of examining the account by the Bondholders' Committee, has always been as full and complete as they deemed necessary to protect the interests of the Trust. They attended to these duties once in every six months, or nearly that, making a full settlement, and when they had completed their labors they entered upon the cash book their doings, substantially in the following form :

" August 28, 1866.

Examined and allowed from December, 1865, to May 30th, 1866.

JOSEPH ANDREWS,	}	<i>Committee First Mortgage Bonds."</i>
J. M. PINKERTON,		
ALBERT F. TAYLOR,		

The committee generally looked over the books once a quarter, and made a full settlement every six months, or about that.

The Decree of the Court required the Receivers and Managers to file a statement of their accounts with the Court semi-annually, so that the committee might make their examination ; but instead of that, the committee preferred to examine at headquarters, where they could come direct to the books and vouchers, rather than take the semi-annual statements filed in Court. And the Receivers, supposing that that would satisfy the requirements of the Decree, accepted the certificate of the committee in the way it was made on the cash book, instead of going through the technical requirements of the Decree.

The course adopted by the committee was this : They went to the Treasurer's office, took various sets of books for that period, examined them carefully, noted the items, looked through the vouchers, and laid aside those which needed explanation. They would then apply to Mr. Merrill or the Treasurer, and obtain any explanation or information they required regarding the vouchers, and those vouchers which were still left unexplained. they would reserve to be explained by the Trustees, Mr. Brainerd, Mr. Clark, or J. Gregory Smith. The committee had free access to the books and vouchers, and made their examination in their own way uninfluenced.

The committee often made suggestions, and gave advice upon

matters they thought beneficial to the property, frequently going out themselves to the shops and on the line of the road, to make examinations, and if they found anything they thought was wrong, they would suggest such plans as would, in their judgment, effect an improvement. Sometimes they would suggest modifications of the rules and regulations. Matters of importance were usually subjected to their examination and discussion, and they were usually consulted upon important matters at their inception, or after they had progressed, as was found convenient.

In 1873, the Committee of Bondholders, having discharged their duties in relation to the examination of the accounts of the Trust, made their certificate containing the following paragraph :

"The certificate of the Committee of the Vermont Central Railroad First and Second Mortgage Bondholders.

"We the undersigned Committee hereby certify that in closing up the examination of the accounts of the Board of Receivers of the Vermont Central and Vermont & Canada Railroads, upon their retiring from office at this date, July 1, 1873, we find that the books appear to have been regularly and systematically kept, that all monies received on account of said Boards appear to have been rightly charged to them, and all monies disbursed by them, to have been faithfully shown by vouchers, even to sums down to one dollar and under, and that both books and vouchers appear to correspond."

As appears from Exhibit No. 16a, and for other matters contained in said certificate, we refer to the same exhibit in connection with the facts elsewhere mentioned in our report.

The Bondholders held their annual meetings up to and including 1870, since which time no meeting has been held. At these meetings they elected the Committee of Bondholders. At the first meeting of the Bondholders, the salary of the several members of the committee was fixed at \$750. After that it was reduced to \$500, where it has since remained.

Since 1861 J. M. Pinkerton has held, at different times, amounts of the Trust securities, both in his own right and as Trustee, at one time \$7,700 in his own right, and \$1,500 as Trustee, and has signed in the consolidation scheme as Trustee \$20,000. In the Stanstead, Shefford & Chambly Bonds \$60,500. In the Equipment Bonds \$6,400, and in the Extension Bonds \$7,500. He has also owned stock in the Vermont & Canada Company, which he disposed of in 1869. At one time he owned \$2000 in the Second Mortgage Bonds. At another time \$1500. These Second Mortgage Bonds he disposed of in 1864 or 1865.

In 1868 he owned \$57,000 of the First Mortgage Bonds. A portion of these were disposed of the same year.

Otis Drury, covering the same time, has owned of the Vermont & Canada stock, 300 shares, and \$20,000 in the Vermont Central First Mortgage Bonds.

In 1873, and for some time previous thereto, B. P. Cheney, J. Gregory Smith and W. C. Smith, were operating the New London Northern Railroad as lessees: at which time there were two accounts in favor of the Trust against that road, one for \$84,994.32, and the other for \$61,808.89. These accounts consist of unsettled balances between that road and the Trust, and due to the Trust, and with other accounts, were turned over to the Central Vermont Company.

The several balances referred to in Messrs. Simons and Walker's requests on page 36, we think are sufficiently detailed under the several heads to which they more appropriately belong.

Counsel for bondholders requested that an expert be allowed to examine the books and aid the counsel in the investigation.

The clerks in the several departments, familiar with the books, including Mr. Merrill, Mr. Williams and Mr. Wilbur, who had long been familiar with the books and the business of the Trust, being entirely at the service of counsel to answer any questions and refer counsel to any matters desired, it was thought unnecessary by the Masters to delay for the purposes of obtaining other experts, as it was agreed that said Wilbur, Merrill and Williams were entirely competent, and entirely above suspicion as to their integrity.

Neither said Williams, Merrill nor Wilbur were then in the employ of the Trust. It was thought by the Masters that these men could give more information to counsel, touching the matters to be investigated, than any new expert, whatever might be his capacity in that department, and that the delay occasioned by procuring such expert, and familiarizing him with the business, was entirely unnecessary and uncalled for.

The Managers offered to furnish any or all the clerical force of the Trust to aid counsel in their investigation, so far as counsel might desire, and also to furnish them with a room in the building of the Trust, separate and apart from any annoyance and disturbance of others in which they could alone, or with the aid of the gentlemen above named, pursue their investigations at their leisure.

The Managers offered every facility for investigation that could be offered, keeping their clerical force in readiness to aid in the matter at all times.

The Masters, therefore, declined to entertain the request of counsel, to which exceptions were taken.

The Managers during the entire investigation carried out their proposition fully, and all parties connected with the investigation made examination of the books and papers touching the accounting as fully and completely as they desired, adjournments being made by the Masters from time to time, to facilitate such investigation, and as desired by the parties.

In the spring of 1871 the Trust owned seven Pullman cars. These cars had been in use some time. The Trust being in need of funds, and with a view to have new cars put upon the line by Mr. Pullman, decided to sell them. Mr. Pullman proposed to purchase the cars, provided the Trust would take in payment therefor stock in the Pullman Palace Car Company. The Managers decided to do this, and sold the cars to Mr. Pullman for the sum of \$50,000, which was a fair price.

At this time certain parties connected with the management agreed to take the stock and pay for it, as follows :

J. GREGORY SMITH,	\$10,000
B. P. CHENEY,	10,000
W. C. SMITH,	10,000
L. BARNES,	10,000
GEO. STARK,	5,000
G. MERRILL,	5,000

This stock was not delivered to the Trust till August 15, 1871. G. Merrill paid for his stock by charging it to himself on the books, to apply on his account against the Trust. L. Barnes gave a note for his stock and paid the same with twelve per cent. interest thereon till paid. J. Gregory Smith's stock was charged to him on the books of the Trust. W. C. Smith's stock was charged to him in like manner. B. P. Cheney paid cash for his stock. G. Stark also paid cash for his stock. Interest should be allowed on the stock of J. Gregory Smith and W. C. Smith, in settlement of their accounts respectively, from August 15, 1871, the time the stock was received. No interest should be charged G. Merrill, for the reason that the Trust then owed him a greater amount than his stock, on which no interest was computed in settlement of his account.

The stock was taken by the Trust at its par value. Inquiry was made by Mr. Cheney in relation to the market value of said stock in New-York at the time, and he ascertained that there was none on the market. Inquiry was also made by J. Gregory Smith in Boston, but he could find none on the market.

J. Gregory Smith sold his stock soon after for 101. After making inquiry in relation to the value of the stock, Mr. Cheney reluctantly consented to take it and pay the money, but did so with a view to help the Trust to funds. In this transaction the parties taking the stock acted in good faith to the Trust, believing they were paying a full and adequate price therefor.

Certain of the Pullman Palace Car stock was sold on commission in Chicago, as appears by an open letter of C. Grauville Hammond, received in evidence as follows :

July	1, 1871,	\$50,000	@	109
September	5, 1871,	10,000	@	110
September	29, 1871,	10,000	@	110
November	3, 1871,	9,500	@	110
November	15, 1871,	9,500	@	108 Ex. Div.
November	23, 1871,	12,000	@	110
November	29, 1871,	8,700	@	108
December	4, 1871,	600	@	110
December	9, 1871,	1,500	@	110
March	16, 1872,	12,000	@	110 and Int.
July	2, 1872,	15,000	@	112

It did not appear that any other sales were made, nor did any of the circumstances attending said sales appear before us, and in view of the further fact that Mr. Pullman must have been fully apprised of the value of his Palace Car stock when he made the contract for the cars, and that he disposed of it at par, we find that said stock was worth no more than par at the time it came into the hands of the persons above named.

Exhibit No. 27 is a statement of Postal Service on the S. S. & C. Road, and Exhibit No. 28 is also a statement of Postal Service on the Montreal & Vermont Junction Road.

Mr. A. B. Foster made an arrangement with the Canadian Government for the mail money on both these roads, and holding the contracts with the Government, he collected the money, gave his receipts for it and used it. He has promised to settle the matter with the Trust, but has not yet done so.

There is a large amount of unsettled deal between the Trust and said Foster, and this mail money is connected with it. This unsettled account has been passed over to the new Receivers, the Central Vermont Company. We find no fault in the Managers in relation to this matter, and do not think they ought to be charged with said mail money.

J. Gregory Smith and Joseph Clark were duly appointed Agents for the construction of the Swanton branch and Burlington branch, and as such made a contract with one Barnard to build the Swanton branch for \$25,000 per mile. Said Barnard proceeded with the work of construction under the contract, but as the expense of the construction very much exceeded the contract price, by reason of the increase of prices upon material and labor, growing out of the derangement of the currency, said Barnard made a claim for additional pay which was not acceded to by said Clark and Smith, whereupon the subject was referred to a committee of the Vermont & Canada Company, appointed to settle with said Clark and Smith, and the cost of said road was adjusted at \$340,308.98.

The contract price for building was \$250,000.

The cost of the Burlington branch was \$327,221.02. These several sums of \$340,308.98, and \$327,221.02, were expended by said Clark and Smith in the construction of said roads; and their accounts touching the same have been settled and adjusted by the Vermont & Canada Company, and we allow the same in the account of the Receivers.

The Trust have been in the habit of issuing free passes in pursuance of a custom contemporaneous with the road to various officials and others.

To the Governor, Lieutenant-Governor, Treasurer, Adjutant-General, Quarter-Master-General, Secretary of State, the Judges of the Supreme Court and their families, the Collector of Customs and his staff and Mail Officials; the Postmaster-General at Washington usually sends for passes and they are sent him. Some passes are issued to those in the Transportation Service.

Editors of newspapers have received them in consideration of certain services by them. To the Judge and Clerk of the District Court, District Attorney, Marshal and Deputy Marshal, also Members of Congress and other persons.

The Masters in this cause respectively hold passes, and have done so for a long time before their appointment.

The same custom of issuing free passes upon railroads is common throughout New England.

A book containing a list of passes from 1869 to 1873 inclusive, was presented by the Trust before the Investigating Committee, and that list read to the Committee, since which hearing the book cannot be found.

A request was made by counsel for the Bondholders to produce that book before the Masters. A long and diligent search was made by the officials and clerks of the Trust where said book would be likely to be found, but it could not be found, and therefore was not produced, and we find that it is lost.

Mr. Davenport made the following motion in writing:

"Counsel for Austin Burchard and Rush C. Hawkins, First Mortgage Bondholders, after repeated notices to produce the same, move the Masters here that an order be made by them, upon the Receivers requiring them to produce for the inspection of the Masters, such books or papers as will show the number of free passes issued, and the name of the persons to whom they were issued by said Receivers, from July 1, 1861, to July 1, 1873.

St. Albans, Sept. 19, 1875.

CHAS. N. DAVENPORT,
Of Counsel."

The ruling of the Masters upon this motion was, that the Receivers produce the books or papers in question, if in their power to do so.

By request of Mr. Davenport, we refer to correspondence of Mr. Clark, Mr. Hobart, Mr. Merrill, and J. G. Smith, found on pages 2, 3 and 4 of errata in Investigating Committees' Report.

This correspondence, with all other evidence bearing upon the point, the Masters have considered in arriving at their conclusion.

It did not appear that there were any papers containing said passes, or reference thereto, save the book above named.

There was no evidence before us in relation to the value of these passes. We are, therefore, unable to make any finding in relation thereto.

The Masters report of July, 1861, charges the Receivers with a balance of \$29,416.37.

This balance was undoubtedly intended to represent the balance between the earnings or receipts, and the disbursements, and was carried along in the business of the Trust, no rest being made in the accounts, and whatever of property that sum represents, has been used up in the Trust and forms a portion of the present accounting, and is involved in the general operations of the Trust since that time, and in some form or other, has been turned over to the new Receivers, the Central Vermont Company, as a part of the assets.

The Receivers had none of the avails of the \$29,416.37, and should not be charged with them. That item appears again in the statement of the accounts of the Bondholders committee February, 1865, above referred to.

At the time of making up the report of the committee, no rest was made in the accounts, and whatever was charged to the Receivers in that account, in like manner passed into the operations of the Trust and helped to form the subject matter of the present accounting.

The Receivers had none of the funds represented in that accounting and should not be charged with them.

No rest was made in the accounts till July 1, 1873, when the Trustees and Managers caused an inventory to be made of the entire property of the Trust, and said property was by them turned over to the new Receivers, the Central Vermont Company, which inventory is filed and may be referred to. No receipt has been taken of the new Receivers for the property so turned over to them.

We find that the Trustees and Managers have acted in good faith in the management of the affairs of the Trust, and with ordinary care and prudence.

In 1863-4, negotiations, which had for sometime previous thereto been pending between the Vermont & Canada Company and the Bondholders and the Managers, touching divers disputes and disagreements between them in relation to Trust property, were brought to a close by arrangements which entered largely into the decree of 1864, called the Compromise Decree, and to which all these several interests were parties and duly represented therein: and in furtherance of these agreements, and understandings resulting in the compromise, the Committee of Bondholders settled all the accounts of the Receivers and Managers up to December 1, 1864, as heretofore stated, and made their report to the annual Bondholder's meeting held in 1865, upon which action was taken by said meeting among other things, as follows:

"With reference to any old disputed questions in the accounts of the Trustees and Receivers, existing prior to the settlement embodied in the Decree of January 19th, 1864, the bondholders present expressed the opinion that in order to secure harmony and good feeling, the committee acting as special Masters, in closing up this examination, had better pass all the accounts of the Trustees and Receivers according to the spirit of the said settlement."

At this time it was understood by the Vermont & Canada Company and the bondholders, as well as by the Trustees and Managers, that the affairs of the Trust had emerged from the position of a technical trust as understood in 1855, when the property was placed in the hands of trustees to hold it together under the ordinary rules pertaining to the management of trust property, and that the Trustees and Managers were to go on and provide for the development of the property more in the manner of a corporation than a restricted trust.

To this end, the Vermont & Canada Company and the bondholders have from time to time acted in entire harmony with the Trustees and Managers in developing the property, as will be seen on inspection of the Vermont & Canada Company's Records and the Records of the

Bondholders, relating to the taking on of leased lines, the authorization of equipment loans and other matters pertaining to the management of the Trust property; which Records are referred to.

The several parties in interest assumed to control the management and development of the property as they thought best, using the Court only in the furtherance of their plans and wishes; thus making the Court nominally the guardian of the property, while in fact, the parties in interest were its real guardians.

The Bondholders acted through their Committee, authorized by the Court, whose acts the Bondholders understood to be legal and binding upon them; while the Vermont & Canada Company acted through their Directors.

The more important disbursements made by the Trustees and Managers which are made the subject of objection in this accounting, were known to and acquiesced in, at the time they were made, by said Directors and Committee, or legitimately grew out of transactions which they authorized and approved.

The payment of interest to the First and Second Mortgage Bondholders, as well as the payment of interest on the various loans, was known to the Vermont & Canada Company and no objection was made thereto.

The loans hereinbefore particularly detailed were procured by the parties in interest under an order of the Court in various instances, for the express purpose of paying interest on the Mortgage Bonds, as set forth in the petition for such loans, to which proceedings creating said loans, the Bondholders and the Vermont & Canada Company were parties and acted therein.

The Trustees and Managers were often in consultation with the authorities of the Vermont & Canada Company and the committee of Bondholders, and the Advisory Committee, in relation to the management of the affairs of the Trust, and the line of policy to be pursued, during which time the utmost harmony prevailed between them.

All the affairs of the Trust and the management of the Trust property have ever been open for the inspection and criticism of parties interested therein, as well as those pertaining to the books and papers of the Trust, as to the acts of the Trustees and Managers, except as to the secret service fund heretofore referred to:

No objection has ever been made to the allowance of the accounts of the Trustees and Managers by the Auditing Committee, as heretofore detailed, until this investigation or until the objections filed in Court.

Ever since the lessees took the Sullivan Road the Vermont & Canada Directors, and the committee of Bondholders, have known that the lessees claimed to have leased, and were running the road in their own right and for their own benefit, and at their own risk; that said committee and directors have never claimed any interest in the road or its earnings or profits, but they and all other parties in interest have always treated the same as belonging to said lessees, and have made no objection thereto. The accounts of the Managers have been approved by said advisory committee, upon the theory that said road and its profits or losses, belonged to the lessees and not to the Trust.

Since the earlier part of this report was drawn up, counsel have furnished the Masters with an exhibit, showing the earnings and expenses upon the Vermont Central and Vermont & Canada Roads from 1861 to July 1st, 1873, and said Exhibit is marked No. 1½.

The net earnings of the Vermont Central and Vermont & Canada Roads from July 1st, 1861, to July 1st, 1873, were \$2,581,632.45, as appears by Exhibit No. 1½, in detail for each period of six months.

The net earnings of the Vermont Central and Vermont & Canada Roads, as shown by Exhibit No. 1½, from January 1st, 1866, to July 1st, 1873, were \$1,673,799.61.

The net earnings of the same roads for thirteen months ending July 1st, 1873, were \$440,321.88, as appears by the same exhibit.

The rent of the Vermont & Canada Railroad falling due during said thirteen months was \$240,000.

The interest on the First Mortgage Bonds falling due during the same thirteen months, was \$210,000, and the interest falling due on the Second Mortgage Bonds during the same time, was \$105,000.

This interest and rent was for the year ending June 1st, 1873.

The net earnings of the Vermont Central and Vermont & Canada Roads were not sufficient to pay the rent of the Vermont & Canada Road, and the interest on the First Mortgage Bonds, falling due July 1st, 1873, by \$9,678.12, and were not sufficient to pay said rent and interest and the interest on the Second Mortgage Bonds during that time, by \$114,678.12, in the manner the account is presented in Exhibit No. 1½, wherein the extraordinary expenses, permanent improvements, Government taxes and interest on the floating debt are included in the account of operating expenses.

This manner of making up the account covers the whole period of this accounting.

But if the account of operating expenses is made up excluding the

Government taxes, extraordinary and permanent improvements and interest on the floating debt, then it will be found that the net earnings of the Vermont Central and Vermont & Canada Roads during the period of this accounting, have been more than sufficient to pay the interest on all the bonds and the interest on the Vermont & Canada stock, as will appear by Mr. Wilbur's report on the 28th page of the Horticultural Hall report, October, 1872, referred to and made a part of this report.

The rent and incidental expenses of the Vermont & Canada Railroad Company for thirteen months, ending July 1st, 1873, have not been paid by the Receivers and Managers.

Said rent is 8 per cent. per annum on \$3,000,000, the capital stock of said company, and is payable semi annually.

The net earnings of the Vermont Central and Vermont & Canada roads for said thirteen months being \$440,321.88, as the account is presented in Exhibit No. 11, was more than enough to pay the rent due the Vermont & Canada Railroad Company, and the incidental expenses of said company. The interest on the floating debt of the Trust for said thirteen months was included in the operating expenses of said roads.

The amount of rent paid the Vermont & Canada Railroad Company by the Receivers from the 1st of December, 1861, is \$1,812,592.00.

The amount of interest paid on the First Mortgage Bonds from the 1st of June, 1861, to the 1st of July, 1873, is \$1,556,532.68.

No rent or interest has been paid since June 1st, 1872.

The dates when the several payments of interest were made, were not shown us.

No interest has been paid on the Second Mortgage Bonds during the period covered by this accounting, except one year's interest, which, we understand, was paid in the Stanstead, Shefford & Chambly Bonds, ordered by a decree of the Court of Chancery heretofore referred to.

The interest paid on the Income and Extension Bonds to July 1st, 1873, is \$38,140.00, as appears by Exhibit No. 35; and the entire amount of interest paid on bonded debt may be found on said exhibit, together with a statement of the rent paid the Vermont & Canada Company.

No construction account was kept by the Receivers and Managers during that period, and all expenditures for permanent erections and improvements are included in the accounts of expenses of operating the roads, so that the accounts as kept and as filed in the Court, do not show separately the cost of permanent improvements and the ordinary expenses of operating the roads, but both are included together in the accounts filed as expenses of operating.

In the accounting before us the Second Mortgage Bondholders and the Vermont Central Railroad Company did not appear to make any objections.

At the commencement of the hearing before us, J. Gregory Smith, one of the Receivers, was sworn and testified as to the correctness of the accounts so far as he had any knowledge.

Some questions then arose between counsel as to the manner of procedure in the hearing.

The Masters suggested to counsel that it would be impossible for them to examine every item of the accounts from 1861 to 1873, within any time that they could devote to the investigation, on account of the very great number of items covering every transaction of the Trust during that period: Hence it was suggested by the Masters that counsel could examine the books with such aids as the Receivers could furnish them, and through the books very readily refer to vouchers containing items which they might desire to contest; and that the Masters would treat all items not specifically objected to as established, and allow the same.

This proposition was acceded to by counsel, and the hearing was conducted on that basis.

A very great number of vouchers was produced, and in their order were handed to the witness, who was asked what the voucher was for. The witness would read the voucher, and in many instances, state facts connected with the transaction named in the voucher.

In other instances, nothing would be said about the voucher or its subject matter, beyond the mere reading of it, and in some such instances, no objection would be made to it by counsel at the time. Some objections appear in the printed "requests" to items of this character. These items have been allowed by the Masters.

In operating the Sullivan Road, there were four or five items paid by the Trust, which belonged to the lessees of that road to pay, and which were not charged over to the lessees, or if charged at all, were charged out of their proper place, so that it could not be ascertained whether the lessees had ever accounted to the Trust.

These items we have charged to the lessees of the Sullivan Road, and they will be found in J. G. Smith's account.

One item of very considerable magnitude, being about eight thousand dollars, which was for the lessees to pay, was properly charged against the Sullivan Road on the Trust Books in Boston, but in transmitting the account to the office at St. Albans, it was, by mistake,

omitted to be charged. The facts in relation to the last named item have been detailed elsewhere.

We find the business of the Trust, (in many respects necessarily complicated, and requiring great minutia) to have been done under a complete system, and with great accuracy, and although some errors have occurred in some of the details, they are very slight compared with the great amount of business transacted.

We find Exhibit No. 45a, to be a correct balance sheet of the Trustees and Managers of the Vermont Central and Vermont & Canada Railroads, including copy of balance sheet of ledger to December 1st, 1864, as stated by the committee of Bondholders in their report to the Bondholders June 19th, 1865.

This balance sheet closes the accounts to July 1st, 1873, when the entire property of the Trust was inventoried and turned over by the Trustees and Managers to the new Receivers, the Central Vermont Company.

We charge the Trustees and Managers with the several items there set down against them, and credit them with the several items there set down to their credit.

We have allowed all the accounts of the Receivers and Managers, subject to the opinion of the Court on the facts reported.

We have allowed J. Gregory Smith for services as Receiver, the amount allowed him by the former Masters in their report of 1861, and since that time, five thousand five hundred dollars per year to July 1st, 1873, as appears on No. 40a, and on paper marked "A."

We have allowed Worthington C. Smith, one of the Receivers, four thousand dollars per year, for the time he was Receiver, to July 1st, 1873, as appears on paper "C."

We have allowed B. P. Cheney, three thousand dollars per year, for the time he was Receiver, to July 1st, 1873, as appears on Exhibit 28a.

We have allowed Lawrence Barnes, one of the Receivers, twenty-five hundred dollars for his services during the time he was such Receiver, as appears on paper marked "D."

The accounts with all the other Receivers for their salaries, have been settled and closed.

We find a balance due the Trust from J. Gregory Smith of \$58,133.12 as appears on paper "A."

We find a balance due from Worthington C. Smith to the Trust of \$18,093.14 as appears on paper "C."

Paper marked "B" contains the \$56,000 named in a certain order

rawn by Clark and Smith on the Trust funds under date of November 0th, 1865, and hereinbefore mentioned in this report, wherein the facts are sufficiently detailed, which paper "E" is referred to.

Paper marked "F" is an account of the Montreal & Vermont Junction rent, wherein we find a balance due the Trust of \$3,611.34 interest on which is to be computed from July 1st, 1873.

Lawrence Barnes claims no interest on the sums allowed him, and none is to be computed.

Interest is to be computed on the \$56,000 above named from Nov. 0th, 1865.

On the balances in B. P. Cheney's account, J. Gregory Smith's account and Worthington C. Smith's account, interest is computed to July 1st, 1873, and interest is to be computed from that date.

Papers marked "A," "B," "C," "D," "E," and "F," are referred to and made a part of this report.

All which is respectfully submitted; April 24, 1877.

PAUL DILLINGHAM,	} <i>Special Masters.</i>
DUDLEY C. DENNISON,	
JOHN L. EDWARDS,	

Masters' fees:

Paul Dillingham,	\$2,500 00
Expenses,	293 76
Dudley C. Dennison,	2,500 00
Expenses,	250 85
John L. Edwards,	3,000 00
Expenses,	197 35
Costs before Masters.	

